The

Journal of the Senate

OF THE

SEVENTY-SIXTH SESSION

OF THE

LEGISLATURE OF THE STATE OF NEVADA

2011

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

VOLUME 6

THE ONE HUNDRED AND EIGHTEENTH DAY—THE ONE HUNDRED AND NINETEENTH DAY

SEE VOLUME 1 FOR TABLE OF CONTENTS
SEE VOLUME 7 FOR INDEX

ARRANGEMENT AND CONTENTS OF VOLUME 6

Page

SENATE PROCEEDINGS 4841

THE ONE HUNDRED AND EIGHTEENTH DAY

CARSON CITY (Saturday), June 4, 2011

Senate called to order at 10:45 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by Sherry Rodriguez, Chaplain.

Father, I would like to take a moment to say Thank You. Those two words are so simple, but yet, we take things for granted and forget to say them.

Thank You for carrying us this far, but now we ask that You might share a little bit of Your strength to get us through these final days of Session with grace and dignity.

Help us to maintain friendships that may have been strained, and give strength to those who are weary.

With the help of Your strength and wisdom, we take the next steps to complete a long and tedious task. We thank You for Your guidance.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Education, to which was referred Assembly Bill No. 171, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Education, to which was re-referred Senate Bill No. 212, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MO DENIS, *Chair*

Mr. President:

Your Committee on Revenue, to which were referred Assembly Bills Nos. 245, 572, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

SHEILA LESLIE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 3, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bill No. 426.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 316, 345, 574.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 168, Amendment No. 881, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 738 to Assembly Bill No. 504; Senate Amendment No. 713 to Assembly Joint Resolution No. 5.

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. 98, Assembly Amendment No. 857, and requests a conference, and appointed Assemblymen Oceguera, Kirkpatrick and Goicoechea 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. 136, Assembly Amendments Nos. 724, 811, and requests a conference, and appointed Assemblymen Conklin, Bustamante Adams and Hickey 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. 200, Assembly Amendment No. 720, and requests a conference, and appointed Assemblymen Kirkpatrick, Atkinson and Ellison 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. 249, Assembly Amendment No. 838, and requests a conference, and appointed Assemblymen Kirkpatrick, Neal and Woodbury as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 268, Assembly Amendment No. 833, and requests a conference, and appointed Assemblymen Kirkpatrick, Daly and Stewart as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 365, Assembly Amendment No. 639, and requests a conference, and appointed Assemblymen Mastroluca, Diaz and McArthur 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. 402, Assembly Amendment No. 740, and requests a conference, and appointed Assemblymen Conklin, Horne and Kirner 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 Bustamante Adams, Neal and Ellison as a Conference Committee concerning Assembly Bill No. 59.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Horne, Frierson and Hammond as a Conference Committee concerning Assembly Bill No. 136.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Smith, Benitez-Thompson and Stewart as a Conference Committee concerning Assembly Bill No. 240.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Neal, Bustamante Adams and Ellison as a Conference Committee concerning Assembly Bill No. 257.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Anderson, Benitez-Thompson and Hambrick as a Conference Committee concerning Assembly Bill No. 277.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the report of the Conference Committees concerning Assembly Bill No. 39; Assembly Bill No. 40; Assembly Bill No. 362.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 5.

Resolution read.

Senator Wiener moved the adoption of the resolution.

Remarks by Senator Wiener.

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

Senate Concurrent Resolution No. 5 directs the Legislative Commission to appoint a committee to conduct an interim study of the system and laws governing the protection of children in Nevada. The committee shall consult with representatives of the system of child welfare, including child welfare agencies and organizations that provide services, as well as children and families who receive services.

The measure further provides that the committee recommend clear standards for the protection of children and strategies to preserve and build safe families. The Legislative Commission shall submit a report and recommendations to the 77th Session of the Nevada Legislature.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

Assembly Concurrent Resolution No. 10.

Resolution read.

Senator Wiener moved the adoption of the resolution.

Remarks by Senator Wiener.

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

Assembly Concurrent Resolution No. 10 directs the Legislative Committee on Health Care to create a task force to develop a State plan to address Alzheimer's disease. The measure provides that the Committee may, to the extent that money is available, including money from gifts, grants and donations, fund the costs of the task force.

The measure further provides that the Committee shall submit a report of the findings of the task force, the plan it has developed, and any recommended legislation to the 77th Session of the Nevada Legislature.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 316.

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

Motion carried.

Assembly Bill No. 345.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 115.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 846.

"SUMMARY—~~[Establishes provisions]~~ **Provides requirements** governing payment for the provision of certain services and care to patients and reports relating to those services and care. (BDR 40-192)"

"AN ACT relating to health care; requiring certain hospitals and physicians to accept certain ~~[rates]~~ **amounts** as payment in full for the provision of certain services and care to certain patients; providing an exception under certain circumstances; requiring the submission of certain reports relating to policies of health insurance and similar contractual agreements by certain third parties who issue those policies and agreements; ~~[revising provisions relating to the duties of the Director of the Office for Consumer Health Assistance;]~~ requiring the ~~[Commissioner of Insurance]~~ **Administrator of the Health Division of the Department of Health and Human Services** to study issues relating to policies of health insurance and similar contractual agreements; ~~[requiring the Commissioner to adopt related regulations;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a hospital is required to provide emergency services and care and to admit certain patients where appropriate, regardless of the financial status of the patient. (NRS 439B.410) Existing law also requires certain major hospitals to reduce total billed charges by at least 30 percent for hospital services provided to certain patients who have no insurance or other contractual provision for the payment of the charges by a third party. (NRS 439B.260) **Section 13** of this bill requires an out-of-network hospital with 100 or more beds that is not operated by a federal, state or local governmental entity to accept, under certain circumstances, as payment in full for the provision of **any medical screening and** emergency services and care to ~~[certain patients a rate]~~ **stabilize a patient who arrives at the out-of-network hospital through an emergency transport an amount** which ~~[does not exceed the greater of: (1) the amount that the third party negotiated with other hospitals in this State; (2) the amount calculated using the same method the third party uses to determine payments to out-of-network hospitals, without reducing the calculation for cost sharing; or (3) the amount that would be paid by Medicare. The Commissioner of Insurance may adopt regulations to interpret these provisions in a manner that is similar to the interpretation of the federal regulation establishing the amount that certain health insurance providers must pay to out-of-network hospitals for emergency services. (29 C.F.R. § 2590.715-2719A)]~~ **equals 115 percent of the amount set forth in the schedule of fees and charges established by the Division of Industrial Relations of the Department of Business and Industry for costs associated with services and care provided to a patient for treatment other than treatment of a traumatic injury, and 120 percent of the amount set forth in that schedule of fees and charges for costs associated with services and care provided to the patient for treatment of a traumatic injury. Section 14** of this bill **similarly** requires an out-of-network physician ~~[on the medical staff]~~ of an out-of-network hospital with 100 or more beds to accept as payment in full for the provision of **medical screening and** emergency services and care ~~[, other than services and care provided]~~ to stabilize a patient ~~[, a rate]~~ **an**

amount which is ~~[similarly calculated to that in section 13. Section 15 of this bill requires an out-of-network physician on the medical staff of an in-network hospital with 100 or more beds to accept as payment in full for the provision of medical services and care, other than services and care provided to stabilize a patient, a rate which is similarly calculated to that in section 13. Sections 13-15 further provide that, if a hospital or physician, as applicable, determines that the amount prescribed pursuant to those sections is not sufficient to reimburse for the provision of services and care to a patient, the hospital or physician may negotiate a different rate with the third party and may, under certain circumstances, file a complaint and request for mediation with the Director of the Office for Consumer Health Assistance. Section 17 of this bill requires the Director to establish a procedure for filing and processing such complaints and requests for mediation.]~~ **based on the schedule of fees and charges established by the Division of Industrial Relations. A physician who provides services and care to the patient for treatment other than treatment of a traumatic injury will receive an amount equal to 115 percent of the amount set forth in that schedule of fees and charges, an anesthesiologist will receive an amount equal to 120 percent of the amount set forth in that schedule of fees and charges, and a physician who provides services and care to the patient for treatment of a traumatic injury will receive 120 percent of the amount set forth in that schedule of fees and charges. Section 14 excludes emergency room physicians from these provisions. Sections 13 and 14 allow an out-of-network hospital and an out-of-network physician to negotiate a different amount if the hospital or physician believes that the amount provided pursuant to those sections does not provide a fair and reasonable rate of return in relation to the services provided. In addition, section 13 requires that a patient be transferred to an in-network hospital within a certain period after which the third party will be responsible for the billed charges if the patient has not been transferred. Section 14.5 of this bill provides the process for submitting a dispute regarding the fair and reasonable rate of return to mediation.**

Section 16 of this bill requires a third party who wishes to pay the amounts prescribed pursuant to **sections 13** ~~[, 15]~~ **and 14** to maintain an adequate network of providers and submit certain reports to the ~~[Commissioner of Insurance]~~ **Administrator of the Health Division of the Department of Health and Human Services** and to the Legislative Committee on Health Care. **Section** ~~[18]~~ **1** of this bill requires the ~~[Commissioner of Insurance]~~ **Administrator of the Health Division** to ~~[prescribe the standards of adequacy for the networks of third parties in this State and to]~~ determine whether third parties have adequate networks. **Section 11 of this bill provides that the provisions of this bill apply only to certain insurers that are organized as nonprofit entities. Section 12.7 of this bill provides that the provisions of this bill do not apply to Medicaid or to the Children's Health Insurance Program.**

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

Section 1. Chapter ~~[439B]~~ **439** of NRS is hereby amended by adding thereto ~~[the provisions set forth as sections 2 to 16, inclusive, of this act.]~~ **a new section to read as follows:**

1. For the purposes of sections 2 to 16, inclusive, of this act, the Administrator shall:

(a) Study the information received pursuant to section 16 of this act and prescribe standards of adequacy based on the results of that study.

(b) Determine whether the network of hospitals and physicians established by each third party in this State meets the standards of adequacy prescribed by the Administrator.

2. On or before July 1 of each year, the Administrator shall prepare a report of the standards of adequacy for networks prescribed pursuant to subsection 1 and:

(a) Make the report available to the public; and

(b) Provide to the Legislative Committee on Health Care and the Commissioner of Insurance a copy of the report.

3. As used in this section, "third party" has the meaning ascribed to it in section 11 of this act.

Sec. 1.5. **Chapter 439B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this act.**

Sec. 2. ***As used in sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to*** ~~*[12,]*~~ ***12.5, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Air ambulance" has the meaning ascribed to it in NRS 450B.030.***

Sec. 4. ***"Ambulance" has the meaning ascribed to it in NRS 450B.040.***

Sec. 5. ***"Emergency services and care" has the meaning ascribed to it in NRS 439B.410.***

Sec. 6. ***"Fire-fighting agency" has the meaning ascribed to it in NRS 450B.072.***

Sec. 7. ***"In-network hospital" means, for a particular patient, a hospital which has entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.***

Sec. 8. ***"In-network physician" means, for a particular patient, a physician who has entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.***

Sec. 8.5. ***"Medical screening" means the medical screening required to be provided to a patient in the emergency department of a hospital pursuant to 42 U.S.C. § 1395dd.***

Sec. 9. ***"Out-of-network hospital" means, for a particular patient, a hospital which has not entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.***

Sec. 10. ***"Out-of-network physician" means, for a particular patient, a physician who has not entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.***

Sec. 11. ~~*["Third]*~~

1. Except as otherwise provided in subsection 2, "third party" includes, without limitation:

~~*[1.]*~~ ***(a) An insurer, as that term is defined in NRS 679B.540;***

~~*[2.]*~~ ***(b) A health benefit plan, as that term is defined in NRS 689A.540, for employees which provides coverage for emergency services and care at a hospital;***

~~*[3.]*~~ ***(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 such officers and employees, pursuant to chapter 287 of NRS; and***

~~*[4.]*~~ ***(d) Any other insurer or organization providing health coverage or benefits in accordance with state or federal law.***

2. The term includes only an entity described in subsection 1 which is a nonprofit entity that qualifies under section 501(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c), as amended.

Sec. 12. "To stabilize" ~~*[has]*~~ ***and "stabilized" have the*** ~~*[meaning]*~~ ***meanings ascribed to*** ~~*[it]*~~ ***them in 42 U.S.C. § 1395dd.***

Sec. 12.5. "Traumatic injury" means any acute injury which, according to standardized criteria for triage in the field, involves a significant risk of death or the precipitation of complications or disabilities.

Sec. 12.7. The provisions of sections 1 to 16, inclusive, of this act do not apply to the services of a hospital or physician provided to a recipient of Medicaid under the State Plan for Medicaid or to a person who is covered by insurance through the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department.

Sec. 13. ***1. Except as otherwise provided in*** ~~*[subsections 3 and 4,]*~~ ***this section, an out-of-network hospital with 100 or more beds that is not operated by a federal, state or local governmental agency shall accept as payment in full for the provision of any medical screening and emergency***

services and care to stabilize a patient ~~[a rate]~~ an amount in accordance with subsection 2 if : ~~[the patient:]~~

(a) ~~[Was]~~ The patient was transported to the out-of-network hospital ~~[for the provision of emergency services and care]~~ by an ambulance, air ambulance or vehicle of a fire-fighting agency which has received a permit to operate pursuant to chapter 450B of NRS; ~~[and]~~

(b) ~~[Has]~~ The patient has a policy of insurance or other contractual agreement with a third party that provides coverage for medical screening and emergency services and care ~~[provided by]~~ ; and

(c) The third party that provides coverage to the patient has more than one in-network hospital in this State . ~~[other than the hospital to which the patient was transported.]~~

2. Except as otherwise provided in ~~[subsections 3 and 4,]~~ this section, an out-of-network hospital with 100 or more beds which is not operated by a federal, state or local governmental agency that provides to a patient described in subsection 1 a medical screening or emergency services and care to stabilize the patient shall accept as payment in full for such medical screening or emergency services and care ~~[a rate]~~ an amount which ~~[does not exceed the greater of:~~

~~(a) The amount negotiated by the third party with in-network hospitals in this State for the emergency services and care provided, excluding any deductible, copayment or coinsurance paid by the patient. If there is more than one amount negotiated with in-network hospitals for the emergency services and care, the amount prescribed in this paragraph must be equal to the median of the amounts negotiated by the third party with all in-network hospitals. The median must be determined by treating the amount negotiated with each in-network hospital as a separate amount, even if the same amount is paid to more than one hospital.~~

~~(b) The amount for the emergency services and care calculated using the same method the third party uses to determine payments to out-of-network hospitals, including, without limitation, the usual, customary and reasonable amount, excluding any deductible, copayment or coinsurance paid by the patient. The amount prescribed in this paragraph must be determined without reducing the calculation for cost sharing that is applied by the third party with respect to emergency services and care provided by an out-of-network hospital.~~

~~(c) The amount that would be paid by Medicare pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq., for the emergency services and care, excluding any deductible, copayment or coinsurance paid by the patient.~~

~~➥ The Commissioner of Insurance may adopt regulations that interpret the provisions of this subsection, which must be consistent with the provisions of 29 C.F.R. § 2590.715-2719A to the extent practicable.]~~ equals:

(a) For costs associated with services and care provided to the patient for treatment other than treatment of a traumatic injury, 115 percent of the

amount set forth in the current schedule of fees and charges established by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 616C.260.

(b) For costs associated with services and care provided to the patient for treatment of a traumatic injury, 120 percent of the amount set forth in the current schedule of fees and charges established by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 616C.260.

3. An out-of-network hospital is not required to accept as payment in full the amount [specified pursuant to] prescribed in subsection 2 if:

(a) The network of the third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient does not meet the standards of adequacy, as [determined] prescribed by the [Commissioner of Insurance] Administrator of the Health Division of the Department pursuant to section [18] 1 of this act;

(b) The third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient has not submitted the quarterly reports required by section 16 of this act;

(c) [The] When applicable, the third party which provides coverage to the patient has not, in good faith, participated in a negotiation or mediation pursuant to subsection 4 ; [and has not documented the occurrence and outcome of any negotiation or mediation;]

(d) The patient [has not paid] does not pay or arrange with the out-of-network hospital for the payment of the deductible, copayment or coinsurance that the patient would otherwise have paid for the provision of the emergency services and care at an in-network hospital [;] within 30 days after the patient received the bill from the out-of-network hospital explaining the amount owed by the patient; or

(e) The third party [has not paid] does not pay the out-of-network hospital for the emergency services and care within [60] 30 days after receipt of the bill or, if applicable, within [60] 30 days after the conclusion of any negotiation , [or] mediation , arbitration or action between the third party and the out-of-network hospital.

4. If an out-of-network hospital believes that the amounts prescribed in subsection 2 [are insufficient to compensate the out-of-network hospital for] do not provide a fair and reasonable rate of return in relation to the [emergency] services and care provided by the out-of-network hospital, the out-of-network hospital may enter into negotiations with the third party which provides coverage to the patient to [resolve the difference between the amount charged by the hospital and the amount paid by the third party.] reach an agreement regarding a fair and reasonable rate of return. If such negotiations do not result in an agreement [on the amount that will be paid for the emergency services and care,] regarding a fair and reasonable rate of return, the out-of-network hospital may [file a complaint with the Director of the Office for Consumer Health Assistance pursuant to

~~*NRS 223.560 and]*~~ *request* ~~*[that the Director mediate to determine the amount that must be paid for such emergency services and care.]*~~ ***mediation as provided in section 14.5 of this act. An out-of-network hospital may not commence an action in court until the matter has been submitted to mediation pursuant to section 14.5 of this act unless the parties agree in writing to waive mediation.***

5. A person who is covered by a policy of insurance or other contractual agreement that provides coverage for the provision of health care who is a patient at an out-of-network hospital must be transferred to an in-network hospital within 12 hours after:

(a) The out-of-network hospital becomes aware that the patient is covered by the third party; or

(b) The out-of-network hospital informs the third party that the patient has been stabilized,

➥ whichever is later, unless the out-of-network hospital and the third party agree to allow the patient to remain at the out-of-network hospital and agree to the amount that may be billed for any services provided after that time. If no such agreement is reached within 12 hours and the patient is not transferred to an in-network hospital, the third party must pay the billed charges of the out-of-network hospital for any services provided after that time.

Sec. 14. ***1. Except as otherwise provided in this section, an out-of-network physician*** ~~*[on the medical staff of an out-of- network]*~~ ***who provides services to a patient at a hospital with 100 or more beds shall accept as payment in full for the provision of any medical screening and emergency services and care to*** ~~*[a patient , other than services and care provided to]*~~ ***stabilize the patient*** ~~*[, a rate]*~~ ***an amount in accordance with subsection 2 if :*** ~~*[the patient:]*~~

(a) ~~*[Was]*~~ ***The patient was transported to the out-of-network hospital*** ~~*[for the provision of emergency services and care]*~~ ***by an ambulance, air ambulance or vehicle of a fire-fighting agency which has received a permit to operate pursuant to chapter 450B of NRS;*** ~~*[and]*~~

(b) ~~*[Has]*~~ ***The patient has a policy of insurance or other contractual agreement with a third party that provides coverage for the provision of health care*** ~~*[by]*~~ ***; and***

(c) The third party has more than one in-network physician in this State who provides the type of services and care ~~*[other than]*~~ ***that were provided by the out-of-network physician .*** ~~*[who provided the emergency services and care at the out-of-network hospital to which the patient was transported.]*~~

2. Except as otherwise provided in ~~*[subsections 3 and 4,]*~~ ***this section, an out-of-network physician*** ~~*[on the medical staff of an out-of-network hospital with 100 or more beds that]*~~ ***who provides to a patient described in subsection 1 a medical screening or emergency services and care*** ~~*[, other than services and care provided]*~~ ***to stabilize the patient*** ~~*[,]*~~ ***shall accept as***

payment in full for such medical screening or emergency services and care ~~[a rate]~~ an amount which ~~[does not exceed the greater of:~~

~~(a) The amount negotiated by the third party with in-network physicians in this State for the emergency services and care provided, excluding any deductible, copayment or coinsurance paid by the patient. If there is more than one amount negotiated with in-network physicians for the emergency services and care, the amount prescribed in this paragraph must be equal to the median of the amounts negotiated by the third party with all in-network physicians. The median must be determined by treating the amount negotiated with each in-network physician as a separate amount, even if the same amount is paid to more than one physician.~~

~~(b) The amount for the emergency services and care calculated using the same method the third party uses to determine payments to out-of-network physicians, including, without limitation, the usual, customary and reasonable amount, excluding any deductible, copayment or coinsurance paid by the patient. The amount prescribed in this paragraph must be determined without reducing the calculation for cost sharing that is applied by the third party with respect to emergency services and care provided by an out-of-network physician.~~

~~(c) The amount that would be paid by Medicare pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq., for the emergency services and care, excluding any deductible, copayment or coinsurance paid by the patient.~~

~~➥ The Commissioner of Insurance may adopt regulations that interpret the provisions of this subsection, which must be consistent with the provisions of 29 C.F.R. § 2590.715-2719A to the extent practicable.]~~ equals:

(a) For services and care provided to the patient for treatment other than treatment of a traumatic injury, 115 percent of the amount set forth in the current schedule of fees and charges established by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 616C.260.

(b) For services and care provided to the patient by an anesthesiologist, regardless of whether the services and care are for treatment of a traumatic injury, 120 percent of the amount set forth in the current schedule of fees and charges established by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 616C.260.

(c) For services and care provided to the patient for treatment of a traumatic injury, 120 percent of the amount set forth in the current schedule of fees and charges established by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 616C.260.

3. An out-of-network physician is not required to accept as payment in full the amount ~~[specified pursuant to]~~ prescribed in subsection 2 if:

(a) The network of the third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient does

not meet the standards of adequacy, as ~~[determined]~~ prescribed by the ~~[Commissioner of Insurance]~~ Administrator of the Health Division of the Department pursuant to section ~~[18]~~ 1 of this act;

(b) The third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient has not submitted the quarterly reports required by section 16 of this act;

(c) ~~[The]~~ When applicable, the third party which provides coverage to the patient has not, in good faith, participated in a negotiation or mediation pursuant to subsection 4 ; ~~[and has not documented the occurrence and outcome of any negotiation or mediation;]~~

(d) The patient ~~[has not paid]~~ does not pay or arrange for the payment of the deductible, copayment or coinsurance that the patient would otherwise have paid for the provision of emergency services and care to an in-network physician ~~[,]~~ within 30 days after the patient has received the bill from the out-of-network physician explaining the amount owed by the patient; or

(e) The third party ~~[has not paid]~~ does not pay the out-of-network physician for the services and care within ~~[60]~~ 30 days after receipt of the bill or, if applicable, within ~~[60]~~ 30 days after the conclusion of any negotiation , ~~[or]~~ mediation , arbitration or action between the third party and the out-of-network physician.

4. If an out-of-network physician believes that the amounts prescribed in subsection 2 ~~[are insufficient to compensate the out-of-network physician for]~~ do not provide a fair and reasonable rate of return in relation to the ~~[emergency]~~ services and care provided by the out-of-network physician, the out-of-network physician may enter into negotiations with the third party which provides coverage to the patient to ~~[resolve the difference between the amount charged by the physician and the amount paid by the third party.]~~ reach an agreement regarding a fair and reasonable rate of return. If such negotiations do not result in an agreement ~~[on the amount that will be paid for emergency services and care,]~~ regarding a fair and reasonable rate of return, the out-of-network physician may ~~[file a complaint with the Director of the Office for Consumer Health Assistance pursuant to NRS 223.560 and]~~ request ~~[that the Director mediate to determine the amount that must be paid for such emergency services and care.]~~ mediation as provided in section 14.5 of this act. An out-of-network physician may not commence an action in court until the matter has been submitted to mediation pursuant to section 14.5 of this act unless the parties agree in writing to waive mediation.

5. If a patient remains at an out-of-network hospital after the time by which the patient is required to be transferred pursuant to subsection 5 of section 13 of this act to an in-network hospital, the third party must pay the billed charges to the out-of-network physician after that time unless the third party and the out-of-network physician have agreed to a different amount that may be billed.

6. The provisions of this section do not apply to an emergency room physician who has a contract with the hospital or who is on the staff of the hospital and who provides services to patients in the emergency department of the hospital.

Sec. 14.5. 1. If negotiations pursuant to subsection 4 of section 13 or subsection 4 of section 14 of this act have not resulted in an agreement regarding a fair and reasonable rate of return in relation to the services and care provided to a patient and the out-of-network hospital or out-of-network physician, as applicable, requests mediation, the parties may select a mediator, or if the parties do not agree upon a mediator, 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 to use, the Federal Mediation and Conciliation Service must be used. The parties shall select the 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 out-of-network hospital or the out-of-network physician, as applicable, shall strike the first name.

2. If mediation is requested, the mediator must be selected at the time the parties agree to mediation or, if the parties do not agree upon a mediator, within 5 days after the parties receive the list of potential mediators.

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. Each party to the mediation shall pay one-half of the cost of mediation and shall pay its own costs of preparation and presentation of its case in mediation.

5. The patient must not be required to participate in the mediation.

6. If the parties are unable to reach an agreement through mediation, the parties may agree to submit the dispute to arbitration for resolution or an action may be commenced in a court of competent jurisdiction within 30 days after the completion of the mediation. If submitted to arbitration, the decision is final and binding upon the parties and the provisions of NRS 38.206 to 38.248, inclusive, apply.

Sec. 15. ~~[*1. Except as otherwise provided in subsections 3 and 4, an out-of-network physician on the medical staff of an in-network hospital with 100 or more beds shall accept as payment in full for the provision of medical services and care to a patient, other than services and care provided to stabilize the patient, a rate in accordance with subsection 2 if the patient has a policy of insurance or other contractual agreement with a third party that provides coverage for the provision of medical services and care by more*~~

~~*than one physician in this State who provides the type of services and care other than the physician who provided the services and care.*~~

~~*2. Except as otherwise provided in subsections 3 and 4, an out-of-network physician on the medical staff of an in-network hospital with 100 or more beds that provides to a patient described in subsection 1 medical services and care, other than services and care provided to stabilize the patient, shall accept as payment in full for such services and care a rate which does not exceed the greater of:*~~

~~*(a) The amount negotiated by the third party with in-network physicians in this State for the medical services and care provided, excluding any deductible, copayment or coinsurance paid by the patient. If there is more than one amount negotiated with in-network physicians for the medical services and care, the amount prescribed in this paragraph must be equal to the median of the amounts negotiated by the third party with all in-network physicians. The median must be determined by treating the amount negotiated with each in-network physician as a separate amount, even if the same amount is paid to more than one physician.*~~

~~*(b) The amount for the medical services and care calculated using the same method the third party uses to determine payments to out-of-network physicians, including, without limitation, the usual, customary and reasonable amount, excluding any deductible, copayment or coinsurance paid by the patient. The amount prescribed in this paragraph must be determined without reducing the calculation for cost sharing that is applied by the third party with respect to medical services and care provided by an out-of-network physician.*~~

~~*(c) The amount that would be paid by Medicare pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq., for the medical services and care, excluding any deductible, copayment or coinsurance paid by the patient.*~~

~~*➥ The Commissioner of Insurance may adopt regulations that interpret the provisions of this subsection, which must be consistent with the provisions of 29 C.F.R. § 2590.715-2719A to the extent practicable.*~~

~~*3. An out-of-network physician is not required to accept as payment in full the amount specified pursuant to subsection 2 if:*~~

~~*(a) The network of the third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient does not meet the standards of adequacy, as determined by the Commissioner of Insurance pursuant to section 18 of this act;*~~

~~*(b) The third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient has not submitted the quarterly reports required by section 16 of this act;*~~

~~*(c) The third party which provides coverage to the patient has not, in good faith, participated in a negotiation or mediation pursuant to subsection 4 and has not documented the occurrence and outcome of any negotiation or mediation;*~~

~~*(d) The patient has not paid the deductible, copayment or coinsurance that the patient would have paid for the provision of health care to an in-network physician; or*~~

~~*(e) The third party has not paid the out-of-network physician for the services and care within 60 days after receipt of the bill or, if applicable, within 60 days after the conclusion of any negotiation or mediation between the third party and the physician.*~~

~~*4. If an out-of-network physician believes that the amounts prescribed in subsection 2 are insufficient to compensate the physician for the medical services and care provided by the physician, the physician may enter into negotiations with the third party which provides coverage to the patient to resolve the difference between the amount charged by the physician and the amount paid by the third party. If such negotiations do not result in an agreement on the amount that will be paid for the services and care, the out-of-network physician may file a complaint with the Director of the Office for Consumer Health Assistance pursuant to NRS 223.560 and request that the Director mediate to determine the amount that must be paid for such services and care.]*~~ **(Deleted by amendment.)**

Sec. 16. ***1. If a third party*** ~~*[who]*~~ ***which issues a policy of insurance or other contractual agreement that provides coverage for health care in this State wishes for out-of-network hospitals and out-of-network physicians to accept as payment in full the amounts prescribed in sections 13*** ~~*[,]*~~ ***and 14*** ~~*[and 15]*~~ ***of this act, the third party shall:***

~~*[1. Review]*~~

(a) Compile a list of the in-network hospitals and in-network physicians of the third party and review information concerning the in-network hospitals and in-network physicians to determine whether a person who is covered by that policy of insurance or other contractual agreement that provides coverage for health care has adequate access to health care, including, without limitation, a review of:

~~*[(a)]*~~ ***(1) The number and types of in-network hospitals and in-network physicians, including, without limitation, emergency room physicians, anesthesiologists and specialty physicians;***

~~*[(b)]*~~ ***(2) The location of the in-network hospitals and in-network physicians compared to the location where the persons covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care live and work;***

(3) Whether a person who is covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care has access to in-network hospitals and in-network physicians without experiencing an unreasonable delay in the provision of health care;

~~*[(c)]*~~ ***(4) Whether the third party has an adequate number of providers of health care in its network to ensure access to*** ~~*[medical]*~~ ***emergency services and care, as determined by the*** ~~*[Commissioner of Insurance]*~~

Administrator of the Health Division of the Department pursuant to section [18] 1 of this act; and

[(d)] (5) The in-network hospitals which provide medical screenings and emergency services and care and the number and type of in-network physicians [on the medical staff of] who have privileges at those in-network hospitals to ensure that the third party has contracted with a sufficient number and type of physicians [who are on the medical staff of] at those in-network hospitals.

[2.] (b) Review the frequency with which persons covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care [are treated for] receive medical screenings and emergency services and care by out-of-network physicians at in-network hospitals and the rate at which those medical screening and emergency services and care are reimbursed by the third party.

[3.] (c) Ensure that persons covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care receive adequate information regarding in-network hospitals and in-network physicians and the financial impact of receiving [medical] medical screenings or emergency services and care from out-of-network hospitals and out-of-network physicians, including, without limitation, the financial impact of receiving [medical] medical screenings and emergency services and care from an out-of-network physician [on the medical staff of] at an in-network hospital. The information must be provided in a format that is meaningful for persons making an informed decision concerning [medical] medical screenings and emergency services and care and must be accessible to persons covered by the policy of insurance or other contractual agreement.

[4.] (d) Submit once each calendar quarter to the [Commissioner of Insurance] Administrator of the Health Division of the Department and the Legislative Committee on Health Care a report containing a summary of the [reviews conducted pursuant to subsections 1 and 2] information collected pursuant to this subsection and the educational efforts undertaken pursuant to [subsection 3.] paragraph (c).

2. If an out-of-network hospital or out-of-network physician is required to accept as payment in full the amounts prescribed in section 13 and 14 of this act, as applicable, the third party which issues a policy of insurance or other contractual agreement that provides coverage for health care in this State is not entitled to any other discount from the out-of-network hospital or out-of-network physician and, except as otherwise provided in sections 13 and 14 of this act, must pay the amount provided pursuant to sections 13 and 14 of this act, as applicable, for each charge covered by those sections for care provided to the patient.

3. An out-of-network hospital or out-of-network physician which is required to accept as payment in full the amount prescribed in sections 13 and 14 of this act, as applicable, shall not collect or attempt to collect from

the patient any amount other than any deductible, copayment or coinsurance which the patient would otherwise be required to pay had the medical screening or emergency services and care been provided at an in-network hospital or by an in-network physician, as applicable.

Sec. 17. ~~[~~NRS 223.560 is hereby amended to read as follows:

223.560 The Director shall:

1. Respond to written and telephonic inquiries received from consumers and injured employees regarding concerns and problems related to health care and workers' compensation;

2. Assist consumers and injured employees in understanding their rights and responsibilities under health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;

3. Identify and investigate complaints of consumers and injured employees regarding their health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance and assist those consumers and injured employees to resolve their complaints, including, without limitation:

(a) Referring consumers and injured employees to the appropriate agency, department or other entity that is responsible for addressing the specific complaint of the consumer or injured employee; and

(b) Providing counseling and assistance to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;

4. Provide information to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance in this State;

5. Establish and maintain a system to collect and maintain information pertaining to the written and telephonic inquiries received by the Office for Consumer Health Assistance;

6. Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Director pursuant to this section;

7. In appropriate cases and pursuant to the direction of the Governor, refer a complaint or the results of an investigation to the Attorney General for further action;

8. Provide information to and applications for prescription drug programs for consumers without insurance coverage for prescription drugs or pharmaceutical services;

9. Establish and maintain an Internet website which includes:

(a) Information concerning purchasing prescription drugs from Canadian pharmacies that have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328;

(b) Links to websites of Canadian pharmacies which have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328; and

~~(c) A link to the website established and maintained pursuant to NRS 439A.270 which provides information to the general public concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State; [and]~~

~~*10. Establish by regulation a procedure for filing and processing complaints concerning the rate of payment prescribed by sections 13, 14 and 15 of this act and the mediation of those complaints to determine:*~~

~~*(a) Whether the rates paid pursuant to sections 13, 14 and 15 of this act are sufficient in a particular circumstance; and*~~

~~*(b) If a determination is made that a rate is not sufficient, an acceptable rate that must be paid to the hospital or physician that filed the complaint; and*~~

~~*11.* Assist consumers with filing complaints against health care facilities and health care professionals. As used in this subsection, "health care facility" has the meaning ascribed to it in NRS 162A.740.]~~ **(Deleted by amendment.)**

Sec. 18. ~~[Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. For the purposes of sections 2 to 16, inclusive, of this act, the Commissioner shall:*~~

~~*(a) Study the providers of health care that are included in the networks established by third parties and prescribe by regulation standards of adequacy based on the results of that study.*~~

~~*(b) Determine whether the network established by each third party in this State meets the standards of adequacy prescribed by the Commissioner.*~~

~~*2. On or before July 1 of each year, the Commissioner shall prepare a report of the standards of adequacy for networks prescribed pursuant to subsection 1 and:*~~

~~*(a) Make the report available to the public; and*~~

~~*(b) Provide to the Legislative Committee on Health Care a copy of the report.*~~

~~*3. As used in this section, "third party" has the meaning ascribed to it in section 11 of this act.]*~~ **(Deleted by amendment.)**

Sec. 19. ~~[NRS 232.805 is hereby amended to read as follows:~~

~~232.805 As used in NRS 232.805 to 232.840, inclusive, *and section 18 of this act,* unless the context otherwise requires:~~

~~1. "Commissioner" means the Commissioner of Insurance.~~

~~2. "Division" means the Division of Insurance of the Department of Business and Industry.]~~ **(Deleted by amendment.)**

Sec. 20. ~~[1. The Director of the Office for Consumer Health Assistance shall adopt the regulations required by NRS 223.560, as amended by section 17 of this act, on or before October 1, 2011.~~

~~2. The Commissioner of Insurance shall adopt the regulations required by section 18 of this act on or before October 1, 2011.]~~ **(Deleted by amendment.)**

Sec. 21. 1. On or before June 30, 2014, the Legislative Committee on Health Care shall review the provisions of this act, including, without limitation, the ~~[rate]~~ **amount** of payment set forth in sections 13 ~~[,]~~ **and** 14 ~~[and 15]~~ of this act, to determine whether ~~[providers of health care]~~ **out-of-network hospitals and out-of-network physicians subject to the provisions of this act** are being adequately compensated for the provision of **medical screenings and emergency** services and care ~~[.]~~ **, as those terms are defined in sections 5 and 8.5 of this act.**

2. The Legislative Committee on Health Care shall forward to the Assembly Standing Committee on Health and Human Services and the Senate Standing Committee on Health and Education the results of the review conducted pursuant to subsection 1 and any proposed changes to the provisions of this act, including, without limitation, the ~~[rate]~~ **amount** of payment ~~[set forth in]~~ **prescribed by** sections 13 ~~[,]~~ **and** 14 ~~[and 15]~~ of this act.

Sec. 22. This act becomes effective ~~[upon passage and approval for the purpose of adopting regulations and]~~ on January 1, 2012 **.** ~~[, for all other purposes.]~~

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Senate Bill No. 115 limits the amount that certain out-of-network hospitals and out-of-network physicians may charge when a patient is transported to the emergency room. Amendment No. 846 revises Senate Bill No. 115 in some significant ways to accommodate many of the concerns that were raised about the underlying bill. The amendment removes the Commissioner of Insurance. The bill requires a study of the adequacy of networks of the insurers. This amendment will require that study to be conducted by the Administrator of the Health Division and requires the Administrator to prescribe standards of adequacy.

The amendment limits the application of the bill only to insurers that are organized as nonprofit entities. This is in Section 11.

The amendment exempts Medicaid and the Children's Health Insurance Program from this bill. It provides that compensation to the out-of-network hospitals and physicians that are subject to the bill will be determined using the schedule of fees and charges established by the Division of Industrial Relations (DIR) of the Department of Business and Industry. For non-trauma care provided to the patient the hospital and physicians will be compensated at 115 percent of the amount set forth in that schedule, and for trauma care they will be compensated at 120 percent of the amount set forth in that schedule. Anesthesiologists will always receive 120 percent of the amount set forth in that schedule. These rates apply to the provision of any medical screening and emergency services and care required to stabilize the patient. This is in sections 13 and 14.

The amendment allows an out-of-network hospital or out-of-network physician to negotiate a different amount if the hospital or physician believes that the payment does not provide a fair and reasonable rate of return in relation to the services provided. In addition, if the parties cannot agree on a fair and reasonable rate, they are required to use mediation to try to resolve the dispute. This is in sections 13(4) and 14(4).

The amendment requires a patient to be transferred to an in-network hospital within a certain period, after which the third party will be responsible for the billed charges if the patient is not transferred. This is in sections 13(5) and 14(5).

The amendment exempts emergency room physicians from the provisions of the measure. This is in Section 14.

The amendment provides the process for submitting a dispute regarding the fair and reasonable rate of return to mediation. The parties are allowed to select a mediator, or if they are unable to agree on a mediator, they are authorized to request a list of seven potential mediators from the American Arbitration Association or the Federal Mediation and Conciliation Service. The mediator is selected by alternately striking one name until one mediator remains. The out-of-network hospital or out-of-network physician has the benefit of striking the first name. The mediator must attempt to settle the dispute within 30 days. Each party to the mediation is required to pay one-half of the cost of mediation. If the parties are unable to reach an arbitration for resolution or may commence and action in a court of competent jurisdiction within 30 days after the completion of the mediation. This is in Section 14.5.

The amendment requires an insurer that wants to apply the limitation on payment prescribed in the measure to maintain an adequate network of providers and submit certain reports regarding network adequacy and out-of-network services and care to the Administrator of the Health Division of the Department of Health and Human Services and to the Legislative Committee on Health Care. This is in Section 16(1). Out-of-network hospitals and out-of-network physicians are not required to accept the amount specified in the measure if the third-payer does not meet these and other specified requirements. This is in Sections 13(3) and 14(3).

The amendment provides that an insurer that pays a hospital or physician applying the provisions of this bill is not entitled to any other discount from the out-of-network hospital or out-of-network physician. This is in Section 16(2).

The amendment requires payments by the insurer to be made within 30 days after receiving the bill or after the conclusion of any negotiations or mediation. This is in Sections 13(3)(e) and 14(3)(e).

The amendment requires the patient to make payments or arrange for payments of deductibles, copayments, or coinsurance within 30 days of receipt of bill. It prohibits an out of-network hospital or out-of-network physician from collecting from the patient any amount other than any deductible, co-payment, or coinsurance which would otherwise be required to pay had the medical screening or emergency services and care been provided at an in-network hospital or by an in-network physician. This is Section 13(3)(d) and Section 14(3)(d).

The amendment prohibits providers from collecting or attempting to collect any additional payments for the patient. This is in Section 16(3).

Senator Copening moved that Senate Bill No. 115 be taken from the Second Reading File and placed on the Second Reading File on the next agenda.

Motion lost 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 11:02 a.m.

SENATE IN SESSION

At 11:06 a.m.

President Krolicki presiding.

Quorum present.

Remarks by Senators Hardy and Copening.

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

SENATOR HARDY:

Thank you, Mr. President. Recognizing the Division of Industrial Relations (DIR) is referenced as to the criteria that looks at the rate setting, occasionally there is an emergency during a pregnancy and a woman may be transported to a hospital by ambulance. Does the Division of Industry, which specializes in workman's compensation, have a nexus to an emergency during a pregnancy where a woman may have to go to the emergency room?

SENATOR COPENING:

Thank you, Mr. President. We spoke with the head of DIR and they have a schedule for pregnancy, but for anything they do not have, they use the relative values for physicians.

Amendment adopted.
Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 341.
Bill read second time and ordered to third reading.

Senate Bill No. 486.
Bill read second time and ordered to third reading.

Assembly Bill No. 171.
Bill read second time and ordered to third reading.

Assembly Bill No. 245.
Bill read second time and ordered to third reading.

Assembly Bill No. 259.
Bill read second time and ordered to third reading.

Assembly Bill No. 330.
Bill read second time and ordered to third reading.

Assembly Bill No. 402.
Bill read second time and ordered to third reading.

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

Assembly Bill No. 515.
Bill read second time and ordered to third reading.

Assembly Bill No. 572.
Bill read second time and ordered to third reading.

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

Senate in recess at 11:13 a.m.

SENATE IN SESSION

At 12:18 p.m.
President Krolicki presiding.
Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 164.

Bill read third time.

Roll call on Senate Bill No. 164:

YEAS—11.

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

Senate Bill No. 164 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 212.

Bill read third time.

The following amendment was proposed by the Committee on Education:

Amendment No. 876.

"SUMMARY—Revises provisions governing charter schools. (BDR 34-900)"

"AN ACT relating to education; revising provisions relating to sponsorship of charter schools; creating the State Public Charter School Authority; prescribing the membership, duties and powers of the State Public Charter School Authority; **imposing certain restrictions on contracts between a charter school or proposed charter school and a contractor or educational management organization;** repealing the Subcommittee on Charter Schools of the State Board of Education; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the formation of charter schools and authorizes school districts, the State Board of Education and colleges and universities within the Nevada System of Higher Education to sponsor charter schools. (NRS 386.500-386.610) **Sections 25-35.5** of this bill create the State Public Charter School Authority and prescribe the membership of the State Public Charter School Authority. **Section 38** of this bill removes the authority of the State Board of Education to sponsor charter schools and authorizes the State Public Charter School Authority to sponsor charter schools. ~~[Sections 43 and 49 of this bill authorize the State Public Charter School Authority to adopt certain regulations relating to charter schools and eliminate the authority of the Department of Education and the State Board of Education to adopt certain regulations relating to charter schools.]~~ **Section 2** of this bill transfers the duty to prepare an annual report of accountability information of each charter school in this State from the board of trustees of a school district to the sponsor of that charter school. **Sections 59 and 60** of this bill require the Director of the State Public Charter School Authority and other persons employed by the State Public Charter School Authority to be appointed or hired, as appropriate. **Section 61** of this bill requires the members of the State Public Charter School Authority to be appointed. **Section 64** of this bill

transfers the sponsorship of all charter schools sponsored by the State Board of Education to the State Public Charter School Authority.

Existing administrative regulations of the Department of Education set forth certain restrictions on contracts and proposed contracts between a charter school or proposed charter school and a contractor or an educational management organization. (NAC 386.403) Section 35.7 of this bill codifies into statute the provisions of this regulation. Section 35.7 also defines educational management organization for purposes of that section.

Section 57 of this bill repeals the Subcommittee on Charter Schools of the State Board of Education.

WHEREAS, The Legislature recognizes that each child in this State should be afforded the opportunity to receive a high-quality education from the public schools of this State; and

WHEREAS, Some children perform better in different learning environments, and the educational programs in public schools should be designed to fit the individual needs of those children; and

WHEREAS, It is the intent of the Legislature to provide teachers and other educational personnel, parents, legal guardians and other persons who are interested in the system of public education in this State the opportunity to:

1. Improve the learning of pupils by creating public schools with rigorous standards for the academic achievement of pupils;

2. Close the achievement gaps between high-performing and low-performing groups of pupils;

3. Increase the opportunities for learning for all pupils;

4. Increase access to alternative educational programs for pupils who are identified as being at risk for academic failure; and

5. Encourage diverse approaches to public education and the use of innovative teaching methods that have proven effective; and

WHEREAS, The Legislature finds that the success of charter schools in this State depends upon the support of high-quality sponsors, effective charter associations and resource centers, effective educational personnel and parents and legal guardians of pupils enrolled in the charter schools; and

WHEREAS, The Legislature finds that the sponsors of successful charter schools maintain high standards for the sponsor and the charter schools they sponsor, preserve autonomy for the charter schools they sponsor and protect the interests of the pupils enrolled in the charter schools and the communities they serve; and

WHEREAS, The Legislature finds that the creation of a State Public Charter School Authority can serve as a model of the best practices in sponsoring charter schools and can foster high-quality public school choice through the charter schools it sponsors by providing pupils with an opportunity to maximize their academic potential; now, therefore,

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

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

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

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

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

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

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools **[**in**]** ***sponsored by*** the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school ~~[that is located within the school district, regardless of the sponsor of the charter school.]~~ ***sponsored by the school district.*** The information for charter schools must be reported separately. ~~[and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.]~~

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

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

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school ~~[in]~~ ***sponsored by*** the district. The board of trustees of the district shall base its report on the

results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school ~~[in]~~ ***sponsored by*** the district, and each grade in which the examinations were administered:

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

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

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

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

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

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

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

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

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

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

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

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

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

(10) Information on whether each school in the district, including, without limitation, each charter school ~~[in]~~ ***sponsored by*** the district, has

made progress based upon the model adopted by the Department pursuant to NRS 385.3595.

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

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

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

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

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

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

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

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

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

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

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

(5) For each elementary school:

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

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

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

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

(1) Any special programs for pupils at an individual school; and

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

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

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

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

(h) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

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

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

(3) Withdraw from school to attend another school.

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

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

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

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

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

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

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

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

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

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

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

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, 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]~~ ***sponsored by*** the district.

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

(s) For each high school in the district, including, without limitation, each charter school ~~[in]~~ ***sponsored by*** the district, the percentage of pupils who

graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

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

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

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

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

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

(2) An adjusted diploma.

(3) A certificate of attendance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. ***The State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall, on or before August 15 of each year, prepare an annual report of accountability of the charter schools sponsored by the State Public Charter School Authority or institution, as applicable,***

concerning the accountability information prescribed by the Department pursuant to this section. The Department, in consultation with the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school, shall prescribe by regulation the information that must be prepared by the State Public Charter School Authority and institution, as applicable, which must include, without limitation, the information contained in paragraphs (a) to (ee), inclusive, of subsection 2, as applicable to charter schools. The Department shall provide for public dissemination of the annual report of accountability prepared pursuant to this section in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the Department.

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

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

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

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

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

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

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

(a) Prescribe forms for the reports required pursuant to ~~[subsection 2]~~ ***subsections 2 and 3*** and provide the forms to the respective school districts ~~[.]~~ ***, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school.***

(b) Provide statistical information and technical assistance to the school districts ***, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school*** to ensure that the reports provide comparable information with respect to each school in each district ***, each charter school*** and among the districts ***and charter schools*** throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; ~~[~~and~~]~~

(6) Legislative Counsel Bureau ~~[~~,~~]~~ ***; and***

(7) Charter School Association of Nevada,

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

~~[~~6.~~]~~ ***7.*** The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

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

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

~~[~~8.~~]~~ ***(b) The State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall submit to each advisory board to review school attendance created in a county pursuant to NRS 392.126 the information regarding the records of the attendance and truancy of pupils enrolled in the charter school located in that county, if any, in accordance with the regulations prescribed by the Department pursuant to subsection 3.***

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

(a) The board of trustees of each school district ***, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school*** shall ~~[~~:

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

(1) Governor;

(2) State Board;

(3) Department;

(4) Committee; and

(5) Bureau.

(b) ~~[~~Provide~~]~~ ***The board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide*** for public dissemination of the annual report of accountability prepared pursuant to subsection 2 ***or 3, as applicable,*** in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, ***the State Public Charter School Authority or the institution,*** if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the

annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school ~~[in]~~ ***sponsored by*** the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school ~~[in]~~ ***sponsored by*** the district.

~~[9.]~~ ***If the State Public Charter School Authority or the institution does not maintain a website, the State Public Charter School Authority or the institution, as applicable, shall otherwise provide for public dissemination of the annual report by providing a copy of the report to each charter school it sponsors and the parents and guardians of pupils enrolled in each charter school it sponsors.***

10. Upon the request of the Governor, an entity described in paragraph (a) of subsection ~~[8]~~ ***9*** or a member of the general public, the board of trustees of a school district ***, the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that sponsors a charter school, as applicable,*** shall provide a portion or portions of the report required pursuant to subsection 2 ~~[.~~

~~10.]~~ ***or 3, as applicable.***

11. As used in this section:

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

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

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

385.349 1. The board of trustees of each school district ***, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school*** shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.347 on the form prescribed by the Department pursuant to subsection 3 or an expanded form, as applicable. The summary must include, without limitation:

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

(b) ***If prepared by the State Public Charter School Authority or a college or university within the Nevada System of Higher Education, the information set forth in subsection 1 of NRS 385.34692, reported for the charter schools sponsored by the State Public Charter School Authority or the institution, as applicable.***

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

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

2. The summary prepared pursuant to subsection 1 must:

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

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

3. The Department shall, in consultation with the Bureau ***,*** ~~[and]~~ the school districts, ***the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school,*** prescribe a form that contains the basic information required by subsection 1. The board of trustees of a school district ***, the State Public Charter School Authority or a college or university*** may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year, the board of trustees of each school district ***, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school*** shall:

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

(1) Governor;

(2) State Board;

(3) Department;

(4) Committee;

(5) Bureau; and

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

(b) Provide for the public dissemination of the summary ***of the school district, the State Public Charter School Authority or the college or university, as applicable,*** by posting a copy of the summary on the Internet website maintained by the school district, ***the State Public Charter School Authority or institution,*** if any. If a school district ***, the State Public Charter School Authority or an institution*** does not maintain a website, the district ***, the State Public Charter School Authority or institution, as applicable,*** shall otherwise provide for public dissemination of the summary. The board of trustees of each school district ***, the State Public Charter School Authority or an institution*** shall ensure that the parents and guardians of pupils enrolled in the school district ***or each charter school, as applicable,*** have sufficient information concerning the availability of the summary, including, without limitation, information that describes how to access the summary on the Internet website maintained by the school district, ***the State Public Charter School Authority or the institution,*** if any. Upon the request of a parent or legal guardian, the school district ***, the State Public Charter School Authority or an institution, as applicable,*** shall provide the parent or legal guardian with a written copy of the summary.

~~[5. The board of trustees of each school district shall report the information required by this section for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote~~

~~the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.]~~

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

385.357 1. Except as otherwise provided in NRS 385.37603 and 385.37607, the principal of each school, including, without limitation, each charter school, shall, in consultation with the employees of the school, prepare a plan to improve the achievement of the pupils enrolled in the school.

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

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

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

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

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

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

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

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

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

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

(I) The curriculum appropriate to improve achievement;

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

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

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

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

(4) Manage effectively the discipline of pupils; and

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

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

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

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

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

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

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

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

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

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

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

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

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

5. If a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623 and a support team has been established for the school, the support team shall review the plan and make revisions to the most recent plan for improvement of the school pursuant to NRS 385.36127. If the school is a Title I school that has been designated as demonstrating need for improvement, the support team established for the school shall, in making revisions to the plan, work in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity responsible for creating the support team, outside experts.

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

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

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

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

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

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

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee;

(f) Bureau; and

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

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

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

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

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

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

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

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

3. The Department shall, in consultation with the Bureau ***,*** ~~[and]~~ the school districts, ***the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school,*** prescribe a form that contains the basic information required by subsection 1. The principal of a school may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year:

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

(1) Department;

(2) Bureau; and

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

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

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

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

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

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

(a) Review and analyze, in accordance with the standards prescribed by the Committee pursuant to subsection 2 of NRS 218E.615, the:

(1) Annual report of accountability prepared by:

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

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

(III) The State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385.347.

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

(I) The State Board pursuant to NRS 385.34691;

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

(III) Each school pursuant to NRS 385.357 identified by the Bureau for review, if any, or if such a plan has not been prepared, the turnaround plan for the schools identified by the Bureau, if any, implemented pursuant to

NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, as applicable.

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

(c) Submit a written report to and consult with each school district ***, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school, as applicable,*** regarding any methods by which the district ***, the State Public Charter School Authority or the institution*** may improve the accuracy of the report required pursuant to subsection 2 ***or 3*** of NRS 385.347 ***, as applicable,*** and the plan to improve the achievement of pupils required pursuant to NRS 385.348, and the purposes for which the report and plan to improve are used.

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

(1) Plan to improve the achievement of pupils required pursuant to NRS 385.357;

(2) Turnaround plan for the school implemented pursuant to NRS 385.37603; or

(3) Plan for restructuring the school implemented pursuant to NRS 385.37607,

➥ whichever is applicable for the school.

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

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

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

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

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

Sec. 7. NRS 385.36127 is hereby amended to read as follows:

385.36127 1. If a school support team is established pursuant to the regulations adopted by the State Board pursuant to NRS 385.361, the support team shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

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

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) Review the information concerning the educational involvement accords provided to the support team pursuant to NRS 392.4575 and the information concerning the reports provided to the support team pursuant to NRS 392.456.

(e) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

(f) Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

(g) Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school, the turnaround plan for the school or the plan for restructuring the school, whichever is applicable for the school. For a charter school sponsored by the State ~~[~~Board,~~]~~ ***Public Charter School Authority,*** the support team shall make the recommendations to the State ~~[~~Board~~]~~ ***Public Charter School Authority*** and the Department. For a charter school sponsored by a college or university within the Nevada System of Higher Education, the support team shall make the recommendations to the sponsor ~~[~~, the State Board~~]~~ and the Department.

(h) In accordance with its findings pursuant to this section and NRS 385.36129, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357, or submit, on or before May 1, written recommendations for revisions to the turnaround plan for the school implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, whichever is applicable for the school. The written revisions or recommendations, as applicable, must:

(1) Comply with NRS 385.357 if the school has demonstrated need for improvement for less than 5 years or with NRS 385.37603 or 385.37607, as applicable, if the school has demonstrated need for improvement for 5 or more consecutive years;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;

(3) Include the data and findings of the support team that provide support for the revisions;

(4) Set forth goals, objectives, tasks and measures for the school that are:

(I) Designed to improve the achievement of the school's pupils;

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

(5) Set forth a timeline to carry out the revisions;

(6) Set forth priorities for the school in carrying out the revisions; and

(7) Set forth the name and duties of each person who is responsible for carrying out the revisions.

(i) Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the State ~~[Board, the Department]~~ ***Public Charter School Authority, the State Public Charter School Authority*** shall assist the school with carrying out and monitoring the plan for improvement of the school. If a charter school is sponsored by a college or university within the Nevada System of Higher Education, ~~[that]~~ ***the*** institution ***that sponsors the charter school*** shall assist the school with carrying out and monitoring the plan for improvement of the school.

(j) Prepare a quarterly progress report in the format prescribed by the Department and:

(1) Submit the progress report to the Department.

(2) Distribute copies of the progress report to each employee of the school for review.

(k) In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise quarterly progress report for use by each support team in accordance with paragraph (j) of subsection 1.

Sec. 8. NRS 385.36129 is hereby amended to read as follows:

385.36129 1. In addition to the duties prescribed in NRS 385.36127, a support team established for a school shall prepare an annual written report that includes:

(a) Information concerning the most recent plan to improve the achievement of the school's pupils, the turnaround plan for the school or the plan for restructuring the school, whichever is applicable for the school, including, without limitation, an evaluation of:

(1) The appropriateness of the plan for the school; and

(2) Whether the school has achieved the goals and objectives set forth in the plan;

(b) The written revisions to the plan to improve the achievement of the school's pupils or written recommendations for revisions to the turnaround plan for the school or the plan for restructuring the school, whichever is applicable for the school, submitted by the support team pursuant to NRS 385.36127;

(c) A summary of each program for remediation, if any, purchased for the school with money that is available from the Federal Government, this state and the school district in which the school is located, including, without limitation:

(1) The name of the program;

(2) The date on which the program was purchased and the date on which the program was carried out by the school;

(3) The percentage of personnel at the school who were trained regarding the use of the program;

(4) The satisfaction of the personnel at the school with the program; and

(5) An evaluation of whether the program has improved the academic achievement of the pupils enrolled in the school who participated in the program;

(d) An analysis of the problems and factors at the school which contributed to the designation of the school as demonstrating need for improvement, including, without limitation, issues relating to:

(1) The financial resources of the school;

(2) The administrative and educational personnel of the school;

(3) The curriculum of the school;

(4) The facilities available at the school, including the availability and accessibility of educational technology; and

(5) Any other factors that the support team believes contributed to the designation of the school as demonstrating need for improvement; and

(e) Other information concerning the school, including, without limitation:

(1) The results of the pupils who are enrolled in the school on the examinations that are administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable;

(2) Records of the attendance and truancy of pupils who are enrolled in the school;

(3) The transiency rate of pupils who are enrolled in the school;

(4) A description of the number of years that each teacher has provided instruction at the school and the rate of turnover of teachers and other educational personnel employed at the school;

(5) A description of the participation of parents and legal guardians in the educational process and other activities relating to the school;

(6) A description of each source of money for the remediation of pupils who are enrolled in the school; ~~[and]~~

(7) ~~[A]~~ ***Except as otherwise provided in subparagraph (8), a*** description of the disciplinary problems of the pupils who are enrolled in the school, including, without limitation, the information contained in paragraphs (k) to (n), inclusive, of subsection 2 of NRS 385.347 ~~[.]~~ ***; and***

(8) For a charter school, a description of the disciplinary problems of the pupils enrolled in the charter school as reported in the annual report of accountability prepared by the State Public Charter School Authority or the college or university within the Nevada System of Higher Education that sponsors the charter school, as applicable, pursuant to subsection 3 of NRS 385.347.

2. On or before November 1, the support team ***of a school other than a charter school*** shall submit a copy of the final written report to the:

(a) Principal of the school;

(b) Board of trustees of the school district in which the school is located;

(c) Superintendent of schools of the school district in which the school is located;

(d) Department; and

(e) Bureau.

➥ The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the school.

3. On or before November 1, the support team for a charter school shall submit a copy of the final written report to the:

(a) Principal of the charter school;

(b) Sponsor of the charter school;

(c) Governing body of the charter school;

(d) Department; and

(e) Bureau.

➥ ***The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the charter school.***

Sec. 9. NRS 385.3613 is hereby amended to read as follows:

385.3613 1. Except as otherwise provided in subsection 2, on or before June 15 of each year, the Department shall determine whether each public school is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

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

3. The determination pursuant to subsection 1 or 2, as applicable, for a public school, including, without limitation, a charter school sponsored by

the board of trustees of the school district, must be made in consultation with the board of trustees of the school district in which the public school is located. If a charter school is sponsored by the State ~~[Board]~~ ***Public Charter School Authority*** or by a college or university within the Nevada System of Higher Education, the Department shall make a determination for the charter school in consultation with the State ~~[Board]~~ ***Public Charter School Authority*** or the institution ***within the Nevada System of Higher Education*** that sponsors the charter school, as applicable. The determination made for each school must be based only upon the information and data for those pupils who are enrolled in the school for a full academic year. On or before June 15 or June 30 of each year, as applicable, the Department shall transmit:

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

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

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

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

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

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

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

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

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

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

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

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

8. As used in this section:

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

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

Sec. 10. NRS 385.362 is hereby amended to read as follows:

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

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

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

(c) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall ensure, in conjunction with the governing body of the charter school, that the ***charter*** school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

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

Sec. 11. NRS 385.366 is hereby amended to read as follows:

385.366 1. Based upon the information received from the Department pursuant to NRS 385.3613, the board of trustees of each school district shall, on or before July 1 of each year, issue a preliminary designation for each public school in the school district in accordance with the criteria set forth in NRS 385.3623, excluding charter schools sponsored by the State ~~[Board]~~ ***Public Charter School Authority*** or by a college or university within the Nevada System of Higher Education. The board of trustees shall make preliminary designations for all charter schools that are sponsored by the board of trustees. The Department shall make preliminary designations for all charter schools that are sponsored by the State ~~[Board]~~ ***Public Charter School Authority*** and all charter schools sponsored by a college or university within the Nevada System of Higher Education. The initial designation of a school as demonstrating need for improvement must be based upon 2 consecutive years of data and information for that school.

2. Before making a final designation for a school, the board of trustees of the school district or the Department, as applicable, shall provide the school an opportunity to review the data upon which the preliminary designation is based and to present evidence in the manner set forth in 20 U.S.C. § 6316(b)(2) and the regulations adopted pursuant thereto. If the school is a public school of the school district or a charter school sponsored by the board of trustees, the board of trustees of the school district shall, in consultation with the Department, make a final determination concerning the designation for the school on August 1. If the school is a charter school sponsored by the State ~~[Board]~~ ***Public Charter School Authority*** or by a college or university within the Nevada System of Higher Education, the Department shall make a final determination concerning the designation for the school on August 1.

3. On or before August 1 of each year, the Department shall provide written notice of the determinations made pursuant to NRS 385.3613 and the final designations made pursuant to this section as follows:

(a) The determinations and final designations made for all schools in this State to the:

(1) Governor;

(2) State Board;

(3) Committee; and

(4) Bureau.

(b) The determinations and final designations made for all schools within a school district to the:

(1) Superintendent of schools of the school district; and

(2) Board of trustees of the school district.

(c) The determination and final designation made for each school to the principal of the school.

(d) The determination and final designation made for each charter school to the sponsor of the charter school.

Sec. 12. NRS 385.3661 is hereby amended to read as follows:

385.3661 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721, 385.3745, 385.3746, 385.37603 or 385.37607 do not apply, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

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

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721, 385.3745, 385.3746, 385.37603 or 385.37607 do not apply:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

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

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

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

3. In addition to the requirements of subsection 1 or 2, as applicable, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721, 385.3745, 385.3746, 385.37603 or 385.37607 do not apply:

(a) Except as otherwise provided in ~~[paragraph (b),]~~ ***paragraphs (b) and (c),*** the board of trustees of the school district shall provide school choice to the parents and guardians of pupils enrolled in the school, including, without limitation, a charter school sponsored by the school district, in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(b) ***For a charter school sponsored by the State Public Charter School Authority, the State Public Charter School Authority shall work cooperatively with the board of trustees of the school district in which the pupil resides to provide school choice to the parent or guardian of each***

pupil enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(c) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall work cooperatively with the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** to provide school choice to the ~~[parents and guardians of pupils]~~ ***parent or guardian of each pupil*** enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

Sec. 13. NRS 385.3693 is hereby amended to read as follows:

385.3693 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

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

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

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

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

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

Sec. 14. NRS 385.372 is hereby amended to read as follows:

385.372 1. In addition to the requirements of NRS 385.3693, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years for failing to make adequate yearly progress:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) Except as otherwise provided in subsection 2, provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the State Public Charter School Authority, the State Public Charter School Authority shall work cooperatively with the board of trustees of the school district in which the pupil resides to provide school choice to the parent or guardian of each pupil enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.***

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall work cooperatively with the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** to provide school choice to the ~~[parents and guardians of pupils]~~ ***parent or guardian of each pupil*** enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

~~[(3)]~~ ***(4)*** Except as otherwise provided in subsection 3, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of supplemental educational services for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of supplemental educational services for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the charter school as if the delay never occurred.

Sec. 15. NRS 385.3721 is hereby amended to read as follows:

385.3721 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

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

(b) The Department shall require the board of trustees of the school district to conduct a comprehensive audit of the school which must include an audit of the curriculum, including, without limitation, methods of instruction and assessments, implemented by the school.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

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

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

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

~~[(d)]~~ ***(e)*** The Department shall require the governing body of the charter school to conduct a comprehensive audit of the charter school which must include an audit of the curriculum, including, without limitation, methods of instruction and assessments, implemented by the charter school.

Sec. 16. NRS 385.3743 is hereby amended to read as follows:

385.3743 1. In addition to the requirements of NRS 385.3721, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(3) Except as otherwise provided in subsection 2, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the State Public Charter School Authority, the State Public Charter School Authority shall:***

(I) Work cooperatively with the board of trustees of the school district in which the pupil resides to provide school choice to the parent or guardian of each pupil enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) Work cooperatively with the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** to provide school choice to the ~~[parents and guardians of pupils]~~ ***parent or guardian of each pupil*** enrolled in the ***charter*** school in accordance with 20 U.S.C. 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

~~[(3)]~~ ***(4)*** Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D). If the

school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of corrective action for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

Sec. 17. NRS 385.3744 is hereby amended to read as follows:

385.3744 1. Except as otherwise provided in subsection 2, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years for failing to make adequate yearly progress, ***the State Public Charter School Authority may, for a charter school sponsored by the State Public Charter School Authority,*** the Department may, for a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take one or more of the following corrective actions for the school:

(a) Significantly decrease the managerial authority of the employees at the school.

(b) Extend the school year or the school day.

2. The ***State Public Charter School Authority, the*** Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, ***the State Public Charter School Authority,*** the Department or the board of trustees, as applicable, may proceed with corrective action as if the delay never occurred.

Sec. 18. NRS 385.3745 is hereby amended to read as follows:

385.3745 1. Except as otherwise provided in subsection 2, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 consecutive years:

(a) The board of trustees of the school district shall:

(1) Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the school which meets the requirements prescribed by the State Board pursuant to paragraph (b).

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

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

(b) The State Board shall prescribe by regulation:

(1) The requirements for a turnaround plan which must include, without limitation:

(I) A requirement that the plan is based on the results of the comprehensive audit conducted pursuant to NRS 385.3721;

(II) Measurable goals and objectives for obtaining adequate yearly progress;

(III) Specified steps or actions for obtaining adequate yearly progress; and

(IV) A timeline for the completion of the turnaround plan, which must provide for implementation of the plan in accordance with NRS 385.37603 if the school is designated as needing improvement for 5 years; and

(2) The actions the Department may take to monitor the development of the turnaround plan developed pursuant to this section and the implementation of any corrective action at the school.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school:

(1) Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the school which meets the requirements prescribed by the State Board pursuant to paragraph ~~[(d).]~~ ***(e).***

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

(c) ***For a charter school sponsored by the State Public Charter School Authority, the State Public Charter School Authority shall, in conjunction with the governing body of the charter school:***

(1) Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the charter school which meets the requirements prescribed by the State Board pursuant to paragraph (e);

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

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

(1) Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the school which meets the requirements prescribed by the State Board pursuant to paragraph ~~[(d).]~~ ***(e).***

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

~~[(d)]~~ ***(e)*** The State Board shall prescribe by regulation:

(1) The requirements for a turnaround plan which must include, without limitation:

(I) A requirement that the plan is based on the results of the comprehensive audit conducted pursuant to NRS 385.3721;

(II) Measurable goals and objectives for obtaining adequate yearly progress;

(III) Specified steps or actions for obtaining adequate yearly progress; and

(IV) A timeline for the completion of the turnaround plan, which must provide for implementation of the plan in accordance with NRS 385.37603 if the school is designated as needing improvement for 5 years; and

(2) The actions the Department may take to monitor the implementation of the turnaround plan developed pursuant to this section and the implementation of any corrective action at the charter school.

3. If a public school is granted a delay from the development of a turnaround plan pursuant to subsection 2 of NRS 385.376 and the school fails to make adequate yearly progress during the period of the delay, a turnaround plan must be immediately developed and implemented for the school in accordance with this section as if the delay never occurred.

4. On or before June 30, a turnaround plan developed for a school must be submitted to the:

(a) Superintendent of Public Instruction;

(b) Department;

(c) Bureau;

(d) Board of trustees of the school district in which the school is located ~~[;]~~ ***or, if the school is a charter school, the sponsor of the charter school and the governing body of the charter school;*** and

(e) Principal of the school.

Sec. 19. NRS 385.3746 is hereby amended to read as follows:

385.3746 1. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of the pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382;

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

(3) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(4) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(5) Except as otherwise provided in subsection 3, develop a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(b) The governing body of the charter school shall provide notice of the designation to the parents and guardians of the pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382. If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) In conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto;

(II) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(III) Except as otherwise provided in subsection 4, develop a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the State Public Charter School Authority, the State Public Charter School Authority shall:***

(I) In conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto;

(II) Work cooperatively with the board of trustees of the school district in which the pupil resides to provide school choice to the parent or guardian of each pupil enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(III) Except as otherwise provided in subsection 4, develop a plan for restructuring the charter school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) In conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto;

(II) Work cooperatively with the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** to provide school choice to the ~~[parents and guardians of pupils]~~ ***parent or guardian of each pupil*** enrolled in the ***charter*** school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(III) Except as otherwise provided in subsection 4, develop a plan for restructuring the ***charter*** school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

~~[(3)]~~ ***(4)*** Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. A plan for restructuring the school developed pursuant to this section must include, without limitation:

(a) A requirement that the plan is based on the results of the comprehensive audit conducted pursuant to NRS 385.3721;

(b) Measurable goals and objectives for obtaining adequate yearly progress;

(c) Specified steps or actions for obtaining adequate yearly progress; and

(d) A timeline for the completion of the plan for restructuring the school, which must provide for implementation of the plan in accordance with NRS 385.37607 if the school is designated as needing improvement for 5 years.

3. The board of trustees of a school district shall grant a delay from the development of a plan for restructuring for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the board of trustees shall immediately develop and proceed with the implementation of the plan for restructuring the school as if the delay never occurred.

4. The sponsor of a charter school shall grant a delay from the development of a plan for restructuring for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, a plan for restructuring must be immediately developed for the school in accordance with this section and the Department shall proceed with the implementation of the plan for restructuring the charter school as if the delay never occurred.

5. On or before June 30, a plan for restructuring developed pursuant to this section must be submitted to the:

(a) Superintendent of Public Instruction;

(b) Department;

(c) Bureau;

(d) Board of trustees of the school district in which the school is located ~~[;]~~ ***or, if the school is a charter school, the sponsor of the charter school and the governing body of the charter school;*** and

(e) Principal of the school.

Sec. 20. NRS 385.376 is hereby amended to read as follows:

385.376 1. Except as otherwise provided in subsection 2, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 consecutive years for failure to make adequate yearly progress, ***the State Public Charter School Authority may, for a charter school sponsored by the State Public Charter School Authority,*** the Department may, for a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take corrective action as set forth in NRS 385.3744 or proceed with differentiated correction actions, consequences or sanctions, or any combination thereof, as prescribed by the State Board pursuant to NRS 385.361.

2. The ***State Public Charter School Authority, the*** Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action, consequences or sanctions, or any combination thereof, pursuant to this section for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, ***the State Public Charter School Authority,*** the Department or the board of trustees, as applicable, may proceed with corrective action, consequences or sanctions, or any combination thereof, for the school, as appropriate, pursuant to the provisions of NRS 385.37603 and 385.37605 as if the delay never occurred.

3. Before the board of trustees ***, the State Public Charter School Authority*** or the Department proceeds with consequences or sanctions, the board of trustees ***, the State Public Charter School Authority*** or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees ***, the State Public Charter School Authority*** or the Department, as applicable, will proceed with consequences or sanctions for the school;

(b) An opportunity to comment before the consequences or sanctions are carried out; and

(c) An opportunity to participate in the development of the consequences or sanctions.

Sec. 21. NRS 385.37603 is hereby amended to read as follows:

385.37603 1. If a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years for failure to make adequate yearly progress:

(a) The board of trustees of the school district shall:

(1) Except as otherwise provided in subsection 3 of NRS 385.37605, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and, not later than September 30, implement the turnaround plan to improve the academic achievement of pupils enrolled in the school developed pursuant to NRS 385.3745;

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

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

(b) The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the school.

2. If a charter school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years for failure to make adequate yearly progress:

(a) The governing body of the charter school shall:

(1) Except as otherwise provided in subsection 3 of NRS 385.37605, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and, not later than September 30, implement the turnaround plan to improve the academic achievement of pupils enrolled in the school developed pursuant to NRS 385.3745.

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on a form prescribed by the Department pursuant to NRS 385.382.

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

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

(d) For a charter school sponsored by ~~[~~the State Board or by~~]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

~~[~~(d)~~]~~ ***(e)*** The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the charter school.

Sec. 22. NRS 385.37605 is hereby amended to read as follows:

385.37605 1. Except as otherwise provided in subsection 3, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years for failure to make adequate yearly progress:

(a) ***The State Public Charter School Authority may, for a charter school sponsored by the State Public Charter School Authority, take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.***

(b) The Department may, for a charter school sponsored by ~~[~~the State Board or by~~]~~ a college or university within the Nevada System of Higher Education, take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

~~[~~(b)~~]~~ ***(c)*** The board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

2. The Department shall monitor the implementation of the turnaround plan for the school developed pursuant to NRS 385.3745.

3. The ***State Public Charter School Authority, the*** Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action, consequences or sanctions pursuant to this section for a school, including, without limitation, the development and implementation of a turnaround plan, for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the ***State Public Charter School Authority, the*** Department or the board of trustees, as applicable, may proceed with corrective action or with consequences or sanctions, or both, for the school, as appropriate, as if the delay never occurred.

4. Before the board of trustees ***, the State Public Charter School Authority*** or the Department proceeds with consequences or sanctions, the board of trustees ***, the State Public Charter School Authority*** or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees ***, the State Public Charter School Authority*** or the Department, as applicable, will proceed with consequences or sanctions for the school;

(b) An opportunity to comment before the consequences or sanctions are carried out; and

(c) An opportunity to participate in the development of the consequences or sanctions.

Sec. 23. NRS 385.37607 is hereby amended to read as follows:

385.37607 1. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Except as otherwise provided in subsection 2, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and, not later than September 30, implement the plan for restructuring the school developed pursuant to NRS 385.3746 if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto;

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382;

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

(4) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(5) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Except as otherwise provided in subsection 3, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and, not later than September 30, implement the plan for restructuring the charter school developed pursuant to NRS 385.3746 if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto;

(II) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382;

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

(IV) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the State Public Charter School Authority, the State Public Charter School Authority shall:***

(I) Except as otherwise provided in subsection 3, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and, not later than September 30, implement the plan for restructuring the charter school developed pursuant to NRS 385.3746 if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto;

(II) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382;

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

(IV) Work cooperatively with the board of trustees of the school district in which the pupil resides to provide school choice to the parent or guardian of each pupil enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) Except as otherwise provided in subsection 3, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and, not later than September 30, implement the plan for restructuring the charter school developed pursuant to NRS 385.3746 if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto;

(II) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382;

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

(IV) Work cooperatively with the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** to provide school choice to the ~~[parents and guardians of pupils]~~ ***parent or guardian of each pupil*** enrolled in the ***charter*** school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

~~[(3)]~~ ***(4)*** Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(c) The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the school or charter school.

2. The board of trustees of a school district shall grant a delay from the imposition of a plan for restructuring for a school, including, without

limitation, the development and implementation of a plan for restructuring, for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of delay, the board of trustees shall proceed with a plan for restructuring the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of a plan for restructuring for a school, including, without limitation, the development and implementation of a plan for restructuring, for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of delay, the Department shall proceed with a plan for restructuring the charter school as if the delay never occurred.

4. Before the board of trustees of a school district ***, the State Public Charter School Authority*** or the Department proceeds with a plan for restructuring, the board of trustees ***, the State Public Charter School Authority*** or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees ***, the State Public Charter School Authority*** or the Department, as applicable, will develop a plan for restructuring the school;

(b) An opportunity to comment before the plan to restructure is developed; and

(c) An opportunity to participate in the development of the plan to restructure.

Sec. 24. NRS 385.620 is hereby amended to read as follows:

385.620 The Advisory Council shall:

1. Review the policy of parental involvement adopted by the State Board and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;

2. Review the information relating to communication with and participation of parents that is included in the annual report of accountability for each school district pursuant to paragraph (j) of subsection 2 of NRS 385.347 ~~[;]~~ ***and similar information in the annual report of accountability prepared by the State Public Charter School Authority and a college or university within the Nevada System of Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385.347;***

3. Review any effective practices carried out in individual school districts to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;

4. Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;

5. Identify methods to communicate effectively and provide outreach to parents and legal guardians of pupils who have limited time to become

involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;

7. Identify methods to communicate effectively with and provide outreach to parents and legal guardians of pupils who are limited English proficient;

8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;

9. On or before July 1 of each year, submit a report to the Legislative Committee on Education describing the activities of the Advisory Council and any recommendations for legislation; and

10. On or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature describing the activities of the Advisory Council and any recommendations for legislation.

Sec. 25. Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 26 to ~~[35.5,]~~ **35.7,** inclusive, of this act.

Sec. 26. ***As used in NRS 386.500 to 386.610, inclusive, and sections 26 to ~~[35.5,]~~ 35.7, inclusive, of this act, the words and terms defined in NRS 386.500 and sections 27 and 28 of this act have the meanings ascribed to them in those sections.***

Sec. 27. ***"Director" means the Director of the State Public Charter School Authority appointed pursuant to section 31 of this act.***

Sec. 28. ***"State Public Charter School Authority" means the State Public Charter School Authority created by section 28.5 of this act.***

Sec. 28.5. ***The State Public Charter School Authority is hereby created. The purpose of the State Public Charter School Authority is to:***

1. Authorize charter schools of high-quality throughout this State with the goal of expanding the opportunities for pupils in this State, including, without limitation, pupils who are at risk.

2. Provide oversight to the charter schools that it sponsors to ensure that those charter schools maintain high educational and operational standards, preserve autonomy and safeguard the interests of pupils and the community.

3. Serve as a model of the best practices in sponsoring charter schools and foster a climate in this State in which all charter schools, regardless of sponsor, can flourish.

Sec. 29. ***1. The State Public Charter School Authority consists of seven members. The membership of the State Public Charter School Authority consists of:***

(a) Two members appointed by the Governor in accordance with subsection 2;

(b) Two members, who must not be Legislators, appointed by the Majority Leader of the Senate in accordance with subsection 2;

(c) Two members, who must not be Legislators, appointed by the Speaker of the Assembly in accordance with subsection 2; and

(d) One member appointed by ~~[an association of charter schools pursuant to subsection 3.]~~ the Charter School Association of Nevada or its successor organization.

2. The Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall ensure that the membership of the State Public Charter School Authority:

(a) Includes persons with a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State;

(b) Includes a parent or legal guardian of a pupil enrolled in a charter school in this State;

(c) Includes persons with specific knowledge of:

(1) Issues relating to elementary and secondary education;

(2) School finance or accounting, or both;

(3) Management practices;

(4) Assessments required in elementary and secondary education;

(5) Educational technology; and

(6) The laws and regulations applicable to charter schools; and

(d) Insofar as practicable, reflects the ethnic and geographical diversity of this State.

3. ~~[The State Public Charter School Authority shall establish a list of associations of charter schools operating in this State which the State Board recognizes as representing the charter schools in this State and designate the order in which such associations may appoint a member to the State Public Charter School Authority. Except as otherwise provided in subsection 5, an association may not appoint more than one member to the State Public Charter School Authority unless each association designated pursuant to this subsection has had an opportunity to make an appointment.~~

~~4.]~~ Each member of the State Public Charter School Authority must be a resident of this State.

~~[5.]~~ 4. After the initial terms, the term of each member of the State Public Charter School Authority is 3 years, commencing on July 1 of the year in which he or she is appointed. A vacancy in the membership of the State Public Charter School Authority must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member shall continue to serve on the State Public Charter School Authority until his or her successor is appointed.

~~[6.]~~ 5. The members of the State Public Charter School Authority shall select a Chair and Vice Chair from among its members. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. If

a vacancy occurs in the Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

~~[7.]~~ 6. Each member of the State Public Charter School Authority is entitled to receive:

(a) For each day or portion of a day during which he or she attends a meeting of the State Public Charter School Authority a salary of not more than $80, as fixed by the State Public Charter School Authority; and

(b) For each day or portion of a day during which he or she attends a meeting of the State Public Charter School Authority or is otherwise engaged in the business of the State Public Charter School Authority the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 30. *1. The members of the State Public Charter School Authority shall meet throughout the year at the times and places specified by a call of the Chair or a majority of the members.*

2. Four members of the State Public Charter School Authority constitute a quorum, and a quorum may exercise all the power and authority conferred on the State Public Charter School Authority.

Sec. 31. *1. The State Public Charter School Authority shall appoint a Director of the State Public Charter School Authority for a term of 3 years. The State Public Charter School Authority shall ensure that the Director has a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State.*

2. A vacancy in the position of Director must be filled by the State Public Charter School Authority for the remainder of the unexpired term.

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

Sec. 32. *The Director shall not pursue any other business or occupation or hold any other office of profit without the approval of the State Public Charter School Authority.*

Sec. 33. *The Director shall:*

1. Execute, direct and supervise all administrative, technical and procedural activities of the State Public Charter School Authority in accordance with the policies prescribed by the State Public Charter School Authority;

2. Organize the State Public Charter School Authority in a manner which will ensure the efficient operation and service of the State Public Charter School Authority;

3. Serve as the Executive Secretary of the State Public Charter School Authority;

4. Ensure that the autonomy provided to charter schools in this State pursuant to state law and regulations is preserved; and

5. Perform such other duties as are prescribed by law or the State Public Charter School Authority.

Sec. 34. *The State Public Charter School Authority may employ such persons as it deems necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 26 to ~~[35.5,]~~ 35.7, inclusive, of this act. The staff employed by the State Public Charter School Authority must be qualified to carry out the daily responsibilities of sponsoring charter schools in accordance with the provisions of NRS 386.500 to 386.610, inclusive, and sections 26 to ~~[35.5,]~~ 35.7, inclusive, of this act.*

Sec. 35. *1. The Account for the State Public Charter School Authority is hereby created in the State General Fund, to be administered by the Director.*

2. The interest and income earned on the money in the Account must be credited to the Account.

3. The money in the Account may be used only for the establishment and maintenance of the State Public Charter School Authority.

4. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

5. The Director and the State Public Charter School Authority may accept gifts, grants and bequests to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 26 to ~~[35.5,]~~ 35.7, inclusive, of this act. Any money from gifts, grants and bequests must be deposited in the Account and may be expended in accordance with the terms and conditions of the gift, grant or bequest, or in accordance with this section.

Sec. 35.3. *1. The governing body of a charter school may contract with the sponsor of the charter school for the purchase of services, excluding those services which are covered by the sponsorship fee paid to the sponsor pursuant to NRS 386.570. If the governing body of a charter school elects to purchase such services, the governing body and the sponsor shall enter into an annual service agreement which is separate from the written charter of the charter school.*

2. If a service agreement is entered into pursuant to this section, the sponsor of the charter school shall, not later than August 1 after the completion of the school year, provide to the governing body of the charter school an itemized accounting of the actual costs of those services purchased by the charter school. Any difference between the amount paid by the charter school pursuant to the service agreement and the actual cost for those services must be reconciled and paid to the party to whom it is due. If the governing body or the sponsor disputes the amount due, the party making the dispute may request an independent review by the Department, whose determination is final.

3. The governing body of a charter school may not be required to enter into a service agreement pursuant to this section as a condition to approval of its written charter by the sponsor of the charter school or as a condition to renewal of the written charter.

Sec. 35.5. ***1. The State Public Charter School Authority is hereby deemed a local educational agency for the purpose of directing the proportionate share of any money available from federal and state categorical grant programs to charter schools which are sponsored by the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that are eligible to receive such money. A charter school that receives money pursuant to such a grant program shall comply with any applicable reporting requirements to receive the grant.***

2. If the charter school is eligible to receive special education program units, the Department shall pay the special education program units directly to the charter school.

3. As used in this section, "local educational agency" has the meaning ascribed to it in 20 U.S.C. § 7801(26)(A).

Sec. 35.7. 1. A contract or a proposed contract between a charter school or a proposed charter school and a contractor or an educational management organization must not:

(a) Give to the contractor or educational management organization direct control of educational services, financial decisions, the appointment of members of the governing body, or the hiring and dismissal of an administrator or financial officer of the charter school or proposed charter school;

(b) Authorize the payment of loans, advances or other monetary charges from the contractor or educational management organization which are greater than 15 percent of the total expected funding received by the charter school or proposed charter school from the State Distributive School Account;

(c) Require the charter school or proposed charter school to prepay any fees to the contractor or educational management organization;

(d) Require the charter school or proposed charter school to pay the contractor or educational management organization before the payment of other obligations of the charter school or proposed charter school during a period of financial distress;

(e) Allow a contractor or educational management organization to cause a delay in the repayment of a loan or other money advanced by the contractor or educational management organization to the charter school or proposed charter school, which delay would increase the cost to the charter school or proposed charter school of repaying the loan or advance;

(f) Require the charter school or proposed charter school to enroll a minimum number of pupils for the continuation of the contract between the charter school or proposed charter school and the contractor or educational management organization;

(g) Require the charter school or proposed charter school to request or borrow money from this State to pay the contractor or educational management organization if the contractor or educational management

organization will provide financial management to the charter school or proposed charter school;

(h) Contain a provision which restricts the ability of the charter school or proposed charter school to borrow money from a person or entity other than the contractor or educational management organization;

(i) Provide for the allocation to the charter school or proposed charter school of any indirect cost incurred by the contractor or educational management organization;

(j) Authorize the payment of fees to the contractor or educational management organization which are not attributable to the actual services provided by the contractor or educational management organization;

(k) Allow any money received by the charter school or proposed charter school from this State or from the board of trustees of a school district to be transferred to or deposited in a bank, credit union or other financial institution outside this State, including money controlled by the contractor or educational management organization; or

(l) Except as otherwise provided in this paragraph, provide incentive fees to the contractor or educational management organization. A contract or a proposed contract may provide to the contractor or educational management organization incentive fees that are based on the academic improvement of pupils enrolled in the charter school.

2. As used in this section, "educational management organization" means a corporation, business, organization or other entity, whether or not conducted for profit, with whom a committee to form a charter school or the governing body of a charter school, as applicable, contracts to assist with the operation, management or provision and implementation of educational services and programs of the charter school or proposed charter school. The term includes a corporation, business, organization or other entity that directly employs and provides personnel to a charter school or proposed charter school.

Sec. 36. NRS 386.500 is hereby amended to read as follows:

386.500 ~~[For the purposes of NRS 386.500 to 386.610, inclusive, a]~~ ***A*** pupil is "at risk" if the pupil has an economic or academic disadvantage such that he or she requires special services and assistance to enable him or her to succeed in educational programs. The term includes, without limitation, pupils who are members of economically disadvantaged families, pupils who are limited English proficient, pupils who are at risk of dropping out of high school and pupils who do not meet minimum standards of academic proficiency. The term does not include a pupil with a disability.

Sec. 37. (Deleted by amendment.)

Sec. 38. NRS 386.515 is hereby amended to read as follows:

386.515 1. The board of trustees of a school district may apply to the Department for authorization to sponsor charter schools within the school district. An application must be approved by the Department before the board of trustees may sponsor a charter school. Not more than 180 days after

receiving approval to sponsor charter schools, the board of trustees shall provide public notice of its ability to sponsor charter schools and solicit applications for charter schools.

2. The State ~~[~~Board~~]~~ ***Public Charter School Authority*** shall sponsor charter schools whose applications have been approved by the State ~~[~~Board~~]~~ ***Public Charter School Authority*** pursuant to NRS 386.525. Except as otherwise provided by specific statute, if the State ~~[~~Board~~]~~ ***Public Charter School Authority*** sponsors a charter school, the State ~~[~~Board or the Department~~]~~ ***Public Charter School Authority*** is responsible for the evaluation, monitoring and oversight of the charter school.

3. A college or university within the Nevada System of Higher Education may sponsor charter schools.

4. Each sponsor of a charter school shall carry out the following duties and powers:

(a) Evaluating applications to form charter schools as prescribed by NRS 386.525;

(b) Approving applications to form charter schools that the sponsor determines are high quality, meet the identified educational needs of pupils and will serve to promote the diversity of public educational choices in this State;

(c) Declining to approve applications to form charter schools that do not satisfy the requirements of NRS 386.525;

(d) Negotiating and executing written charters pursuant to NRS 386.527;

(e) Monitoring, in accordance with NRS 386.500 to 386.610, inclusive, and sections 26 to ~~[35.5,]~~ 35.7, inclusive, of this act, and in accordance with the terms and conditions of the applicable written charter, the performance and compliance of each charter school sponsored by the entity; and

(f) Determining whether each written charter of a charter school that the entity sponsors merits renewal or whether the renewal of the written charter should be denied or the written charter should be revoked in accordance with NRS 386.530 or 386.535, as applicable.

5. Each sponsor of a charter school shall develop policies and practices that are consistent with state laws and regulations governing charter schools. In developing the policies and practices, the sponsor shall review and evaluate nationally recognized policies and practices for sponsoring organizations of charter schools. The policies and practices must include, without limitation:

(a) The organizational capacity and infrastructure of the sponsor for sponsorship of charter schools, which must not be described as a limit on the number of charter schools the sponsor will approve;

(b) The procedure for evaluating charter school applications in accordance with NRS 386.525;

(c) A description of how the sponsor will maintain oversight of the charter schools it sponsors; and

(d) A description of the process of evaluation for charter schools it sponsors in accordance with NRS 386.610.

6. Evidence of material or persistent failure to carry out the powers and duties of a sponsor prescribed by this section constitutes grounds for revocation of the entity's authority to sponsor charter schools.

Sec. 39. NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of at least three teachers, as defined in subsection 4. In addition to the teachers who serve, the committee may consist of:

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

(c) Representatives of a college or university within the Nevada System of Higher Education.

➥ A majority of the persons described in paragraphs (a), (b) and (c) who serve on the committee must be residents of this State at the time that the application to form the charter school is submitted to the Department.

2. ~~[~~Before a committee to form a charter school may submit an application to the board of trustees of a school district, the Subcommittee on Charter Schools, the State Board or a college or university within the Nevada System of Higher Education, it must submit the application to the Department. The~~]~~ ***An*** application ***to form a charter school*** must include all information prescribed by the Department ~~*[State Public Charter School Authority]*~~ by regulation and:

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive ~~[.]~~ ***, and sections 26 to*** ~~*[35.5,]*~~ ***35.7, inclusive, of this act.***

(b) A written description of the mission and goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

(1) Improving the ~~[~~opportunities for pupils to learn;~~]~~ ***academic achievement of pupils;***

(2) Encouraging the use of effective ***and innovative*** methods of teaching;

(3) Providing an accurate measurement of the educational achievement of pupils;

(4) Establishing accountability ***and transparency*** of public schools;

(5) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(6) Creating new professional opportunities for teachers.

(c) The projected enrollment of pupils in the charter school.

(d) The proposed dates of enrollment for the charter school.

(e) The proposed system of governance for the charter school, including, without limitation, the number of persons who will govern, the method of selecting the persons who will govern and the term of office for each person.

(f) The method by which disputes will be resolved between the governing body of the charter school and the sponsor of the charter school.

(g) The proposed curriculum for the charter school and, if applicable to the grade level of pupils who are enrolled in the charter school, the requirements for the pupils to receive a high school diploma, including, without limitation, whether those pupils will satisfy the requirements of the school district in which the charter school is located for receipt of a high school diploma.

(h) The textbooks that will be used at the charter school.

(i) The qualifications of the persons who will provide instruction at the charter school.

(j) Except as otherwise required by NRS 386.595, the process by which the governing body of the charter school will negotiate employment contracts with the employees of the charter school.

(k) A financial plan for the operation of the charter school. The plan must include, without limitation, procedures for the audit of the programs and finances of the charter school and guidelines for determining the financial liability if the charter school is unsuccessful.

(l) A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

(m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125. If the procedure is different from the procedure prescribed in NRS 391.3125, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125.

(n) The time by which certain academic or educational results will be achieved.

(o) The kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020, for which the charter school intends to operate.

(p) A statement of whether the charter school will enroll pupils who are in a particular category of at-risk pupils before enrolling other children who are eligible to attend the charter school pursuant to NRS 386.580 and the method for determining eligibility for enrollment in each such category of at-risk pupils served by the charter school.

3. The ***proposed sponsor of a charter school may request that the Department review an application before review by the proposed sponsor to determine whether the application is complete. Upon such a request, the*** Department shall review an application to form a charter school to determine whether it is complete. If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall deny the application. The Department shall provide written notice to the applicant ***and the proposed sponsor of the charter school*** of its ~~[approval or denial of]~~ ***determination of whether*** the application ~~[.]~~ ***is complete.*** If the Department ~~[denies]~~ ***determines*** an application ~~[,]~~ ***is not complete,*** the Department shall include in the written notice the reason for ~~[the denial]~~ ***its determination*** and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application. ***If the Department determines an application is complete, the Department shall transmit the application to the proposed sponsor for review pursuant to NRS 386.525.***

4. As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

➥ The term does not include a person who is employed as a substitute teacher.

Sec. 40. NRS 386.525 is hereby amended to read as follows:

386.525 1. ~~[Upon approval of an application by the Department, a]~~ ***Except as otherwise provided in this subsection, a*** committee to form a charter school may submit the application to the ~~[board of trustees of the school district in which the]~~ proposed ***sponsor of the*** charter school ***.*** ~~[will be located, a college or university within the Nevada System of Higher Education or directly to the Subcommittee on Charter Schools.]~~ ***If the proposed sponsor of a charter school requested that the Department review the application pursuant to NRS 386.520 and the Department determined that the application was not complete pursuant to that section, the application ~~[must]~~ may not be submitted to the proposed sponsor for review pursuant to this section. If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the proposed sponsor shall deny the application.***

2. If the board of trustees of a school district ~~[,]~~ ***or*** a college or a university ~~[,]~~ ***within the Nevada System of Higher Education,*** as applicable, receives an application to form a charter school, the board of trustees or the institution, as applicable, shall consider the application at a meeting that must be held not later than 45 days after the receipt of the application, or a period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district or the institution, as applicable, and ensure that notice of the meeting has been provided pursuant to

chapter 241 of NRS. ***If the proposed sponsor requested that the Department review the application pursuant to NRS 386.520, the proposed sponsor shall be deemed to receive the application pursuant to this subsection upon transmittal of the application from the Department.*** The board of trustees, the college ~~[~~,~~]~~ ***or*** the university ***,*** ~~[~~or the Subcommittee on Charter Schools,~~]~~ as applicable, shall review an application to determine whether the application:

(a) Complies with NRS 386.500 to 386.610, inclusive, ***and sections 26 to*** ~~*[35.5,]*~~ ***35.7, inclusive, of this act*** and the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the Department.

~~[~~2.~~]~~ ~~*[State Public Charter School Authority.]*~~

3. The Department shall assist the board of trustees of a school district, the college or the university, as applicable, in the review of an application. The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection ~~[~~1.~~]~~ ***2.*** The board of trustees, the college or the university, as applicable, shall provide written notice to the applicant of its approval or denial of the application.

~~[~~3.~~]~~ ***4.*** If the board of trustees, the college or the university, as applicable, denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[~~4.~~]~~ ***5.*** If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection ~~[~~3,~~]~~ ***4,*** the applicant may submit a written request for sponsorship by the State ~~[~~Board to the Subcommittee on Charter Schools created pursuant to NRS 386.507~~]~~ ***Public Charter School Authority*** not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

~~[~~5.~~]~~ ***6.*** If the ~~[~~Subcommittee on Charter Schools~~]~~ ***State Public Charter School Authority*** receives an application pursuant to subsection 1 or ~~[~~4,~~]~~ ***5,*** it shall hold a meeting to consider the application. ***If the State Public Charter School Authority requested that the Department review the application pursuant to NRS 386.520, the State Public Charter School Authority shall be deemed to receive the application pursuant to this subsection upon transmittal of the application from the Department.*** The meeting must be held not later than 45 days after receipt of the application. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The ~~[~~Subcommittee~~]~~ ***State Public Charter School Authority*** shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection ~~[~~1. The Subcommittee may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.

~~6. The Subcommittee on Charter Schools shall transmit the application and the recommendation of the Subcommittee for approval or denial of the application to the State Board. Not more than 14 days after the date of the meeting of the Subcommittee pursuant to subsection 5, the State Board shall hold a meeting to consider the recommendation of the Subcommittee. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Board shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1.~~ ***2. The Department shall assist the State Public Charter School Authority in the review of an application.*** The State ~~[Board]~~ ***Public Charter School Authority*** may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection ~~[1.]~~ ***2.*** Not more than 30 days after the meeting, the State ~~[Board]~~ ***Public Charter School Authority*** shall provide written notice of its determination to the applicant.

7. If the State ~~[Board]~~ ***Public Charter School Authority*** denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

8. If the State ~~[Board]~~ ***Public Charter School Authority*** denies an application after it has been resubmitted pursuant to subsection 7, the applicant may, not more than 30 days after the receipt of the written notice from the State ~~[Board,]~~ ***Public Charter School Authority,*** appeal the final determination to the district court of the county in which the proposed charter school will be located.

9. On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the State ~~[Board,]~~ ***Public Charter School Authority,*** a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

Sec. 41. NRS 386.527 is hereby amended to read as follows:

386.527 1. If the State ~~[Board,]~~ ***Public Charter School Authority,*** the board of trustees of a school district or a college or university within the Nevada System of Higher Education approves an application to form a charter school, it shall grant a written charter to the applicant. The State ~~[Board,]~~ ***Public Charter School Authority,*** the board of trustees, the college or the university, as applicable, shall, not later than 10 days after the approval of the application, provide written notice to the Department of the approval

and the date of the approval. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

2. If the State ~~[Board]~~ ***Public Charter School Authority*** approves the application:

(a) The State ~~[Board]~~ ***Public Charter School Authority*** shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board ***, the State Public Charter School Authority*** nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

3. If a college or university within the Nevada System of Higher Education approves the application:

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

4. The governing body of a charter school may request, at any time, a change in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The State Board ~~*[Public Charter School Authority]*~~ shall adopt:

(a) ~~[An application]~~ ***A*** process for a charter school that requests a change in the sponsorship of the charter school, which must not require the ~~[applicant]~~ ***charter school*** to undergo ***all*** the requirements of an initial application to form a charter school ; and

(b) Objective criteria for the conditions under which such a request may be granted.

5. Except as otherwise provided in subsection 7, a written charter must be for a term of 6 years unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection 2 of NRS 386.530. A written charter must include all conditions of operation set forth in subsection 2 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the State ~~[Board]~~ ***Public Charter School Authority*** or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.

6. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter of the charter school. Such an amendment may include, without limitation,

the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school if the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate. If the proposed amendment complies with the provisions of ~~[this section,]~~ NRS 386.500 to 386.610, inclusive, ***and sections 26 to ~~[35.5,]~~ 35.7, inclusive, of this act,*** and any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school and the expansion of grade levels changes the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit a new application to form a charter school. If such an application is approved, the charter school may continue to operate under the same governing body and an additional governing body does not need to be selected to operate the charter school with the expanded grade levels.

7. The State Board ~~[Public Charter School Authority]~~ shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:

(a) Period for which such a written charter is valid; and

(b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.

➥ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.

8. The holder of a written charter that is issued pursuant to subsection 7 shall not commence operation of the charter school and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements adopted by the State Board ~~[Public Charter School Authority]~~ pursuant to subsection 7 have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

➥ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

Sec. 42. ~~[NRS 386.530 is hereby amended to read as follows:~~

~~386.530 1. Except as otherwise provided in subsection 2, an application for renewal of a written charter may be submitted to the sponsor of the charter school not less than 120 days before the expiration of the charter. The application must include the information prescribed by the regulations of the [Department.] *State Public Charter School Authority.* The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the [Department.] *State Public Charter School Authority.* The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:~~

~~(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and~~

~~(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.~~

~~➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.~~

~~2. A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the [Department.] *State Public Charter School Authority.* The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the [Department.] *State Public Charter School Authority.* The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:~~

~~(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and~~

~~(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.~~

~~➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.]~~ **(Deleted by amendment.)**

Sec. 43. NRS 386.540 is hereby amended to read as follows:

386.540 1. The Department ~~*[Subject to the provisions of subsections 3 and 4, the State Public Charter School Authority]*~~ shall adopt regulations that prescribe:

(a) The process for submission of an application by the board of trustees of a school district to the Department for authorization to sponsor charter schools and the contents of the application;

(b) The process for submission of an application to form a charter school to the ~~[~~Department, the~~]~~ board of trustees of a school district, the ~~[~~Subcommittee on~~]~~ ***State*** ~~[~~Charter Schools~~]~~ ***Public Charter School Authority*** and a college or university within the Nevada System of Higher Education, and the contents of the application;

(c) The process for submission of an application to renew a written charter; and

(d) The criteria and type of investigation that must be applied by the board of trustees, ~~[~~the Subcommittee on Charter Schools,~~]~~ the State ~~[~~Board~~]~~ ***Public Charter School Authority*** and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school or an application to renew a written charter.

2. ~~*[Subject to the provisions of subsections 3 and 4, the State Public Charter School Authority may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 26 to 35.5, inclusive, of this act, including, without limitation, regulations that prescribe the:*~~

~~*(a) Requirements for performance audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and*~~

~~*(b) Requirements for performance audits every 3 years for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.*~~

~~*3.]*~~ The Department may adopt regulations ~~*[relating to the finances and budgets of charter schools]*~~ as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, ***and sections 26 to*** ~~*[35.5,]*~~ ***35.7, inclusive, of this act,*** including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting;

(b) Requirements for performance audits and financial audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and

(c) Requirements for performance audits every 3 years and financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

~~*[4. The State Board of Education may disapprove any regulation adopted by the State Public Charter School Authority if the regulation:*~~

~~*(a) Threatens the efficient operation of the public schools in this State; or*~~

~~*(b) Creates an undue financial hardship for any charter school in this State.*~~

~~*➥ A regulation shall be deemed approved if the State Board of Education does not disapprove the regulation within 45 days after it is adopted by the State Public Charter School Authority.]*~~

Sec. 44. ~~**[**NRS 386.547 is hereby amended to read as follows:~~

~~386.547 The State **[**Board**]** *Public Charter School Authority* shall:~~

~~1. Review all statutes and regulations from which charter schools are exempt and determine whether such exemption assisted or impeded the charter schools in achieving their educational goals and objectives.~~

~~2. Make available information concerning the formation and operation of charter schools in this State to pupils, parents and legal guardians of pupils, teachers and other educational personnel and members of the general public.**]**~~ **(Deleted by amendment.)**

Sec. 45. NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 onsecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required by the Department ***pursuant to NRS 386.540*** contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation; ***and***

(d) ~~**[**The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and~~

~~(e)**]**~~ At least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department ~~*[State Public Charter School Authority]*~~ one time every 3 years. The sponsor of the charter school and the Department ~~*[regulations of the State Public Charter School Authority]*~~ shall not request ~~*[require]*~~ a performance audit of the charter school more frequently than every 3 years without reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school based upon the annual report submitted to the ~~**[**State Board**]**~~ ***Department*** pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance in achieving the educational goals and objectives of the

charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Notwithstanding the provisions of paragraph (b) of subsection 1, such a charter school:

(a) May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of paragraphs (a), (c) ~~[,]~~ ***and*** (d) ~~[and (e)]~~ of subsection 1.

(b) Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 45.5. NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located or the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers. ***If the board of trustees of a school district or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the governing body and the sponsor must enter into a service agreement pursuant to section 35.3 of this act before the provision of such services.***

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

➥ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

5. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in sports at the public school that he or she would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

➥ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.

6. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 4 and 5 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

Sec. 46. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in an account with a bank, credit union or other financial institution in this State. The governing

body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of each school quarter, the ~~[sponsor of a charter school may request reimbursement from the governing body of the charter school]~~ ***Superintendent of Public Instruction shall pay to the sponsor of a charter school one-quarter of the yearly sponsorship fee*** for the administrative costs associated with sponsorship for that school quarter ~~[if the sponsor provided administrative services during that school quarter. The request must include an itemized list of those costs. Unless a delay is granted pursuant to subsection 9, upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school. If a governing body fails to pay the reimbursement pursuant to this subsection or pursuant to a plan approved by the Superintendent of Public Instruction in accordance with subsection 9, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.~~

~~(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.~~

~~4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.~~

~~(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.~~

~~5.]~~ ***, which must be deducted from the quarterly apportionment to the charter school made pursuant to NRS 387.124. Except as otherwise provided in*** ~~*[this]*~~ ***subsection*** ~~*[,]*~~ ***4, the yearly sponsorship fee for the sponsor of a charter school must be in an amount of money not to exceed 2 percent of the total amount of money apportioned to the charter school during the school year pursuant to NRS 387.124.***

4. If the governing body of a charter school satisfies the requirements of this subsection, the governing body may submit a request to the sponsor of the charter school ~~*[for transmittal to the Superintendent of Public Instruction]*~~ ***for approval of a sponsorship fee in an amount that is less than 2 percent but at least 1 percent of the total amount of money apportioned to the charter school during the school year pursuant to NRS 387.124. The*** ~~*[Superintendent of Public Instruction]*~~ ***sponsor of the charter school shall approve such a request if the*** ~~*[Superintendent]*~~ ***sponsor of the charter school determines that the charter school satisfies the requirements of this subsection. If the*** ~~*[Superintendent of Public Instruction]*~~ ***sponsor of the charter school approves such a request, the*** ~~*[Superintendent]*~~ ***sponsor shall provide notice of*** ~~*[his or her]*~~ ***the decision to the governing body of the charter school and the*** ~~*[sponsor of the charter school.]*~~ ***Superintendent of Public Instruction. If the sponsor of the charter school denies such a request, the governing body of the charter school may appeal the decision of the sponsor to the Superintendent of Public Instruction. Upon appeal, the sponsor of the charter school and the governing body of the charter school are entitled to present evidence. The decision of the Superintendent of Public Instruction on the appeal is final and is not subject to judicial review. The governing body of a charter school may submit a request for a reduction of the sponsorship fee pursuant to this subsection if:***

(a) ~~*[The charter school has been operating in this State for at least 3 consecutive years and is in good financial standing;*~~

~~*(b) Each financial audit and each performance audit of the charter school required pursuant to NRS 386.540 contains no major notations, corrections or errors concerning the charter school for at least 3 consecutive years;*~~

~~*(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation; and*~~

~~*(d) At least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at the high school grade level.]*~~ ***The charter school satisfies the requirements of subsection 1 of NRS 386.5515; and***

(b) There has been a decrease in the duties of the sponsor of the charter school that justifies a decrease in the sponsorship fee.

[4.] **5.** To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. *[5.]* If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. *[6.]* The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State ~~[Board]~~ ***Public Charter School Authority*** may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

8. *[7.]* If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

~~[9. The governing body of a charter school may submit to the Superintendent of Public Instruction a written request to delay a quarterly payment of a reimbursement for the administrative costs that a charter school owes pursuant to this section. The written request must be in the form prescribed by the Superintendent and must include, without limitation, documentation that a financial hardship exists for the charter school and a plan for the payment of the reimbursement. The Superintendent may approve or deny the request and shall notify the governing body and the sponsor of the charter school of the approval or denial of the request.]~~

Sec. 47. ~~[NRS 386.576 is hereby amended to read as follows:~~

~~386.576 1. The Fund for Charter Schools is hereby created in the State Treasury as a revolving loan fund, to be administered by the [Department.]~~ ~~*State Public Charter School Authority.*~~

~~2. The money in the revolving fund must be invested as other state funds are invested. All interest and income earned on the money in the revolving fund must be credited to the revolving fund. Any money remaining in the revolving fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund must be carried forward.~~

~~3. All payments of principal and interest on all the loans made to a charter school from the revolving fund must be deposited in the State Treasury for credit to the revolving fund.~~

~~4. Claims against the revolving fund must be paid as other claims against the State are paid.~~

~~5. The [Department] *State Public Charter School Authority* may accept gifts, grants, bequests and donations from any source for deposit in the revolving fund.]~~ **(Deleted by amendment.)**

Sec. 48. ~~[NRS 386.577 is hereby amended to read as follows:~~

~~386.577 1. After deducting the costs directly related to administering the Fund for Charter Schools, the [Department] *State Public Charter School Authority* may use the money in the Fund for Charter Schools, including repayments of principal and interest on loans made from the Fund, and interest and income earned on money in the Fund, only to make loans at or below market rate to charter schools for the costs incurred:~~

~~(a) In preparing a charter school to commence its first year of operation; and~~

~~(b) To improve a charter school that has been in operation.~~

~~2. The total amount of a loan that may be made to a charter school in 1 year must not exceed $25,000.]~~ **(Deleted by amendment.)**

Sec. 49. ~~[NRS 386.578 is hereby amended to read as follows:~~

~~386.578 1. If the governing body of a charter school has a written charter issued pursuant to NRS 386.527, the governing body may submit an application to the [Department] *State Public Charter School Authority* for a loan from the Fund for Charter Schools. An application must include a written description of the manner in which the loan will be used to prepare the charter school for its first year of operation or to improve a charter school that has been in operation.~~

~~2. The [Department] *State Public Charter School Authority* shall, within the limits of money available for use in the Fund, make loans to charter schools whose applications have been approved. If the [Department] *State Public Charter School Authority* makes a loan from the Fund, the [Department] *State Public Charter School Authority* shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.~~

~~3. [The] *Subject to the provisions of subsection 3 of NRS 386.540, the* State [Board:] *Public Charter School Authority:*~~

~~(a) Shall adopt regulations that prescribe the:~~

~~(1) Annual deadline for submission of an application to the [Department] *State Public Charter School Authority* by a charter school that desires to receive a loan from the Fund; and~~

~~(2) Period for repayment and the rate of interest for loans made from the Fund.~~

~~(b) May adopt such other regulations as it deems necessary to carry out the provisions of this section and NRS 386.576 and 386.577.]~~ **(Deleted by amendment.)**

Sec. 50. NRS 386.605 is hereby amended to read as follows:

386.605 1. On or before July 15 of each year, the governing body of a charter school shall submit the information concerning the charter school that is required pursuant to ~~[subsection 2 of]~~ NRS 385.347 to ~~[the board of trustees of the school district in which the charter school is located]~~ ***the sponsor of the charter school*** for inclusion in the report ~~[of the school district]~~ ***required*** pursuant to that section. The information must be submitted ~~[by the charter school]~~ in a format prescribed by the ~~[board of trustees.]~~ ~~*[State Public Charter School Authority.]*~~ ***sponsor of the charter school.***

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 sponsors of the charter schools and*** the governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

Sec. 51. NRS 386.610 is hereby amended to read as follows:

386.610 1. On or before August 15 of each year, ~~[if the State Board, the board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the Department, the board of trustees or the institution, as applicable,]~~ ***the sponsor of a charter school*** shall submit a written report to the ~~[State Board.]~~ ***Department.*** The written report must include:

(a) An evaluation of the progress of each charter school ~~[sponsored by the State Board, the board of trustees or the institution, as applicable,]~~ ***that it sponsors*** in achieving ~~[its]~~ ***the*** educational goals and objectives ~~[.]~~ ***of the charter school.***

(b) A description of all administrative support and services provided by the ~~[Department, the school district or the institution, as applicable,]~~ ***sponsor*** to the charter school ~~[.]~~ ***, including, without limitation, an itemized accounting for the costs of the support and services.***

(c) An identification of each charter school approved by the sponsor:

(1) Which has not opened and the scheduled time for opening, if any;

(2) Which is open and in operation;

(3) Which has transferred sponsorship;

(4) Whose written charter has been revoked by the sponsor;

(5) Whose written charter has not been renewed by the sponsor; and

(6) Which has voluntarily ceased operation.

(d) A description of the strategic vision of the sponsor for the charter schools that it sponsors and the progress of the sponsor in achieving that vision.

(e) A description of the services provided by the sponsor pursuant to a service agreement entered into with the governing body of the charter school pursuant to section 35.3 of this act, including an itemized accounting of the actual costs of those services.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the Department, ~~*[State Public Charter School Authority,]*~~ the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

Sec. 52. NRS 386.650 is hereby amended to read as follows:

386.650 1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to

NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, ***the sponsors of charter schools, the*** school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➥ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction. The information must be considered, but must not be used as the sole criterion, in evaluating the performance of or taking disciplinary action against an individual teacher, paraprofessional or other employee.

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2 and by each university school for profoundly gifted pupils;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data to the Department;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe the date by which each university school for profoundly gifted pupils shall report the data to the Department;

(g) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;
(2) Individual teachers and paraprofessionals;
(3) Individual schools and school districts; and
(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school and university school for profoundly gifted pupils located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

Sec. 53. NRS 387.124 is hereby amended to read as follows:

387.124 Except as otherwise provided in this section and NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts, charter schools and university schools for profoundly gifted pupils in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. The apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who reside in the county but attend a charter school, all the funds attributable to pupils who reside in the county and are enrolled full-time or part-time in a program of distance education provided by another school district or a charter school and all the funds attributable to pupils who are enrolled in a university school for profoundly gifted pupils located in the county. No apportionment may be made to a

school district if the amount of the local funds exceeds the amount of basic support.

2. Except as otherwise provided in subsection 3, the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides minus ***the sponsorship fee prescribed by NRS 386.570 and minus*** all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.

3. The apportionment to a charter school that is sponsored by the State ~~[Board]~~ ***Public Charter School Authority*** or by a college or university within the Nevada System of Higher Education, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus ***the sponsorship fee prescribed by NRS 386.570 and minus*** all funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school.

4. In addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part-time in the program. The amount of the apportionment must be equal to the percentage of the total time services are provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.

6. The apportionment to a university school for profoundly gifted pupils, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the university school is located plus the amount of

local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the university school is located. If the apportionment per pupil to a university school for profoundly gifted pupils is more than the amount to be apportioned to the school district in which the university school is located, the school district shall pay the difference directly to the university school. The governing body of a university school for profoundly gifted pupils may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the university school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A university school for profoundly gifted pupils may receive all four apportionments in advance in its first year of operation.

7. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of reimbursements for all school districts in this State that participate in the Program.

8. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, the State Controller may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.

Sec. 54. NRS 388.795 is hereby amended to read as follows:

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

(a) Plans that have been adopted by the Department and the school districts in this State;

(b) Plans that have been adopted in other states;

(c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347 ~~[,]~~ ***and similar information included in the annual report of accountability information prepared by the State Public Charter School Authority and a college or university within the Nevada System of Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385.347;***

(d) The results of the assessment of needs conducted pursuant to subsection 6; and

(e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

(a) Incorporate educational technology into the public schools of this State;

(b) Increase the number of pupils in the public schools of this State who have access to educational technology;

(c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;

(d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and

(e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

➥ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

(a) The State Board.

(b) The board of trustees of each school district.

(c) The superintendent of schools of each school district.

(d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

(a) The recommendations set forth in the plan pursuant to subsection 2;

(b) The plan for educational technology of each school district, if applicable;

(c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and

(d) Any other information deemed relevant by the Commission.

➥ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

9. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 55. NRS 392.128 is hereby amended to read as follows:

392.128 1. Each advisory board to review school attendance created pursuant to NRS 392.126 shall:

(a) Review the records of the attendance and truancy of pupils submitted to the advisory board to review school attendance by the board of trustees of

the school district ***or the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that sponsors a charter school*** pursuant to subsection ~~[7]~~ ***8*** of NRS 385.347;

(b) Identify factors that contribute to the truancy of pupils in the school district;

(c) Establish programs to reduce the truancy of pupils in the school district, including, without limitation, the coordination of services available in the community to assist with the intervention, diversion and discipline of pupils who are truant;

(d) At least annually, evaluate the effectiveness of those programs;

(e) Establish a procedure for schools and school districts for the reporting of the status of pupils as habitual truants; and

(f) Inform the parents and legal guardians of the pupils who are enrolled in the schools within the district of the policies and procedures adopted pursuant to the provisions of this section.

2. The chair of an advisory board may divide the advisory board into subcommittees. The advisory board may delegate one or more of the duties of the advisory board to a subcommittee of the advisory board, including, without limitation, holding hearings pursuant to NRS 392.147. If the chair of an advisory board divides the advisory board into subcommittees, the chair shall notify the board of trustees of the school district of this action. Upon receipt of such a notice, the board of trustees shall establish rules and procedures for each such subcommittee. A subcommittee shall abide by the applicable rules and procedures when it takes action or makes decisions.

3. An advisory board to review school attendance may work with a family resource center or other provider of community services to provide assistance to pupils who are truant. The advisory board shall identify areas within the school district in which community services are not available to assist pupils who are truant. As used in this subsection, "family resource center" has the meaning ascribed to it in NRS 430A.040.

4. An advisory board to review school attendance created in a county pursuant to NRS 392.126 may use money appropriated by the Legislature and any other money made available to the advisory board for the use of programs to reduce the truancy of pupils in the school district. The advisory board to review school attendance shall, on a quarterly basis, provide to the board of trustees of the school district an accounting of the money used by the advisory board to review school attendance to reduce the truancy of pupils in the school district.

Sec. 56. NRS 218E.615 is hereby amended to read as follows:

218E.615 1. The Committee may:

(a) Evaluate, review and comment upon issues related to education within this State, including, but not limited to:

(1) Programs to enhance accountability in education;

(2) Legislative measures regarding education;

(3) The progress made by this State, the school districts and the public schools in this State in satisfying the goals and objectives of the federal No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., and the annual measurable objectives established by the State Board of Education pursuant to NRS 385.361;

(4) Methods of financing public education;

(5) The condition of public education in the elementary and secondary schools;

(6) The program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;

(7) The development of any programs to automate the receipt, storage and retrieval of the educational records of pupils; and

(8) Any other matters that, in the determination of the Committee, affect the education of pupils within this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which public education may be improved.

2. The Committee shall:

(a) In addition to any standards prescribed by the Department of Education, prescribe standards for the review and evaluation of the reports of the State Board of Education, ***State Public Charter School Authority,*** school districts and public schools pursuant to paragraph (a) of subsection 1 of NRS 385.359.

(b) For the purposes set forth in NRS 385.389, recommend to the Department of Education programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015. In recommending these programs of remedial study, the Committee shall consider programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

(c) Recommend to the Department of Education providers of supplemental educational services for inclusion on the list of approved providers prepared by the Department pursuant to NRS 385.384. In recommending providers, the Committee shall consider providers with a demonstrated record of effectiveness in improving the academic achievement of pupils.

(d) For the purposes set forth in NRS 385.3785, recommend to the Commission on Educational Excellence created by NRS 385.3784 programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

Sec. 57. NRS 386.507 and 386.508 are hereby repealed.

Sec. 58. The Department of Education shall, on or before October 1, 2011, transfer to the Account for the State Public Charter School Authority

created by section 35 of this act any unexpended money collected by the Department pursuant to NRS 386.570 for reimbursement of the administrative costs associated with sponsorship of charter schools sponsored by the State Board of Education.

Sec. 59. Notwithstanding the provisions of section 31 of this act to the contrary, on October 1, 2011, the Governor shall appoint a Director of the State Public Charter School Authority to a term of 3 years. The Director appointed by the Governor must have a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State. Upon the expiration of the term of the Director or if a vacancy occurs before the expiration of the term, the State Public Charter School Authority shall appoint the Director in accordance with section 31 of this act.

Sec. 60. 1. To assist the State Public Charter School Authority created by section 28.5 of this act in carrying out its duties and responsibilities, the Director of the State Public Charter School Authority shall, on or before January 1, 2012:

(a) Hire an administrative assistant and an accounting assistant; and

(b) Hire an educational consultant.

2. On January 1, 2012, one management analyst position in the Department of Education with job duties and responsibilities that relate to charter schools must be transferred to the State Public Charter School Authority.

Sec. 61. On or before January 1, 2012, the members of the State Public Charter School Authority created by section 28.5 of this act shall be appointed to terms commencing on January 1, 2012, as follows:

1. One member appointed by the Governor to a term that expires on June 30, 2013.

2. One member appointed by the Governor to a term that expires on June 30, 2015.

3. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2013.

4. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2015.

5. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2013.

6. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2015.

7. One member must be appointed by ~~[an association of charter schools]~~ **the Charter School Association of Nevada or its successor organization** to a term that expires on June 30, 2015. For the initial selection pursuant to this subsection, the Superintendent of Public Instruction shall designate the association of charter schools that is authorized to appoint a member of the State Public Charter School Authority.

Sec. 62. The Legislative Counsel shall, in preparing the reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or is adopted or amended by another act, appropriately change any reference to an officer or agency whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

Sec. 63. ~~[Any regulations adopted by the Department of Education or the State Board of Education pursuant to NRS 386.500 to 386.610, inclusive, before January 1, 2012, remain in effect and may be enforced by the State Public Charter School Authority created by section 28.5 of this act until the State Public Charter School Authority adopts regulations to repeal or replace those regulations.]~~ **(Deleted by amendment.)**

Sec. 64. A charter school that is approved to operate as a charter school sponsored by the State Board of Education before January 1, 2012, shall be deemed to be sponsored by the State Public Charter School Authority created pursuant to section 28.5 of this act commencing on January 1, 2012, and the written charter of the charter school shall remain in effect until the expiration of the written charter, unless the written charter is revoked by the State Public Charter School Authority pursuant to NRS 386.535. Before expiration of the written charter, such a charter school may apply to the State Public Charter School Authority for renewal of its written charter pursuant to NRS 386.530.

Sec. 65. This act becomes effective upon passage and approval for the purpose of ~~[adopting regulations and]~~ performing any ~~[other]~~ preparatory administrative tasks that are necessary to carry out the provisions of this act, and on July 1, 2011, for all other purposes.

TEXT OF REPEALED SECTIONS

386.507 Subcommittee on Charter Schools: Appointment of members; terms. The Subcommittee on Charter Schools of the State Board is hereby created. The President of the State Board shall appoint three members of the State Board to serve on the Subcommittee. Except as otherwise provided in this section, the members of the Subcommittee serve terms of 2 years. If a member is not reelected to the State Board during his or her service on the Subcommittee, the term of the member on the Subcommittee expires when his or her membership on the State Board expires. Members of the Subcommittee may be reappointed.

386.508 Charter School District for State Board-Sponsored Charter Schools and Nevada System of Higher Education-Sponsored Charter Schools. There is hereby created a school district to be designated as the Charter School District for State Board-Sponsored Charter Schools and Nevada System of Higher Education-Sponsored Charter Schools. The School District comprises only those charter schools that are sponsored by the State Board or sponsored by a college or university within the

Nevada System of Higher Education. The State Board is hereby deemed the Board of Trustees of the School District. The School District is created for the sole purpose of providing local educational agency status to the School District for purposes of federal law governing charter schools.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 876 makes several changes to Senate Bill No. 212. The amendment provides that a request to reduce the sponsorship fee paid by a charter school to its sponsor must first be made to the sponsor. If the request is denied, the charter school may appeal to the Superintendent of Public Instruction whose decision is final.

The amendment specifies that the appointment of the charter school members of the State Charter School Authority will be made by the Charter School Association of Nevada.

The amendment specifies the State Board of Education will be responsible for adopting regulations concerning charter schools, not the State Charter School Authority.

The amendment changes from three to five, the number of years the charter school must have been operating in Nevada in good standing in order to qualify for a reduction in the fee it pays to its sponsor.

The amendment defines an educational management organization and prohibits several potential elements from being included in contracts between a charter school and a contractor or an education management organization. These provisions are currently outlined in *Nevada Administrative* Code (NAC) 386.403 and prohibit contract provisions that would give control of the school to the contractor or Education Management Organization (EMO).

Amendment adopted.

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

Senator Wiener moved that all necessary rules be suspended, that the reprinting of Senate Bill No. 212 be dispensed with, and that the Secretary be authorized to insert Amendment No. 876 adopted by the Senate, and the bill be placed on the next agenda.

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 12:22 p.m.

SENATE IN SESSION

At 12:24 p.m.

President Krolicki presiding.

Quorum present.

Motion carried on a division of the house.

GENERAL FILE AND THIRD READING

Senate Bill No. 374.

Bill read third time.

Roll call on Senate Bill No. 374:

YEAS—21.

NAYS—None.

Senate Bill No. 374 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 447.

Bill read third time.

Roll call on Senate Bill No. 447:

YEAS—21.

NAYS—None.

Senate Bill No. 447 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 471.

Bill read third time.

Roll call on Senate Bill No. 471:

YEAS—20.

NAYS—Gustavson.

Senate Bill No. 471 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 476.

Bill read third time.

Roll call on Senate Bill No. 476:

YEAS—20.

NAYS—Gustavson.

Senate Bill No. 476 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 480.

Bill read third time.

Roll call on Senate Bill No. 480:

YEAS—21.

NAYS—None.

Senate Bill No. 480 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Leslie moved that Senate Bill No. 493 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. 224.

Bill read third time.

Remarks by Senators McGinness, Denis and Hardy.

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

SENATOR MCGINNESS:

Thank you, Mr. President. I will be consistent, since this bill states five times it "requires school districts." I have concerns about school mandates. This is one as well.

SENATOR DENIS:

We heard Assembly Bill No. 224 in the Education Committee and when we talk about education, one of the big concerns is that parents need to be involved. We have approved this bill before, using one-shot funding. This will create the Office of Parental Involvement and Family Engagement within the Department of Education. In so doing, the measure requires the Superintendent of Public Instruction to appoint an employee of the Department to serve as the Director of the Office and ensure that the Office has a sufficient number of personnel to carry out its duties. The duties of the Office include reviewing and evaluating programs to increase parental involvement and family engagement in the public schools; developing a list of effective practices to re-engage parents and families and provide them with the skills and resources necessary to support the academic achievement of their children; working with multiple groups to increase parental involvement and family engagement; and providing information to schools and districts on the availability of competitive grants for programs designed to increase parental involvement and family engagement, including professional development for educational personnel and training for parents.

The measure changes the name of the State's Advisory Council on Parental Involvement to the Advisory Council on Parental Involvement and Family Engagement and requires the new Office to work in partnership with the Advisory Council to review and evaluate the annual accountability reports and plans for improvements relating to parental involvement and family engagement. The contents of the annual accountability reports and plans for improvement are revised to include a description of the efforts made by schools and school districts to increase the involvement of parents and the engagement of families of pupils and the effectiveness of those efforts.

The Commission on Professional Standards in Education is required to work in cooperation with the Office to adopt regulations on or before December 31, 2011, prescribing course work on parental involvement.

We heard in Committee that the Washoe County School District and the Clark County School Districts have parental involvement people. The rural school districts are asking for help in being able to work with parents. If we are talking about reforms in education, then we really have to have parental involvement. The number one factor for student success is parental involvement. I urge your support.

SENATOR HARDY:

Thank you, Mr. President. It sounds like this bill is creating an office to help other offices do what they are supposed to be doing as well as encouraging parental involvement.

SENATOR DENIS:

Correct. This is going to be someone at the State level who is going to be able to help all of the districts as they implement their parental involvement standards, as well as working with the Commission on Professional Standards to work with the universities and those who teach teachers so that they can learn how to engage parents in education.

SENATOR HARDY:

Will this be using current people who are already in place, but reassigning them to this new office, giving them specific direction as to what they are doing or is this a new hire?

SENATOR DENIS:
This is a new hire at the Department of Education. It would be one position, at this point.

Roll call on Assembly Bill No. 224:
YEAS—11.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 224 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 255.
Bill read third time.
Roll call on Assembly Bill No. 255:
YEAS—11.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 255 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

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

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

Assembly Bill No. 432.
Bill read third time.
Roll call on Assembly Bill No. 432:
YEAS—21.
NAYS—None.

Assembly Bill No. 432 having received a two-thirds majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 474.
Bill read third time.
Remarks by Senator Parks.
Senator Parks requested that his remarks be entered in the Journal.
Assembly Bill No. 474 creates a Sunset Subcommittee of the Legislative Commission. The Senate Majority Leader and Speaker of the Assembly each appoint two legislators as members, the Minority Leaders of the Senate and the Assembly each appoint one legislator as a member, and the remaining three members are appointed by the Chair of the Legislative Commission from a list of names of members of the general public submitted by the Governor. The duties of

the Subcommittee include reviewing each board and commission in the State and making recommendations for improvement, consolidation, or other action; and reviewing tax abatements, exemptions and set-asides for such entities, and making recommendations for termination, modification, or other action. The bill sets forth the information to be reported by each board and commission to the Subcommittee and requires each board and commission to pay for the cost of the Subcommittee's review. At least 20 boards and commissions must be reviewed each year and each board and commission must be reviewed at least every 10 years.

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

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

Bill ordered transmitted to the Assembly.

Assembly Bill No. 524.

Bill read third time.

Roll call on Assembly Bill No. 524:
YEAS—20.
NAYS—Gustavson.

Assembly Bill No. 524 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 525.

Bill read third time.

Roll call on Assembly Bill No. 525:
YEAS—21.
NAYS—None.

Assembly Bill No. 525 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 529.

Bill read third time.

Roll call on Assembly Bill No. 529:
YEAS—18.
NAYS—Cegavske, Gustavson, Rhoads—3.

Assembly Bill No. 529 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Assembly Bill No. 39, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 598 of the Senate be receded from and a third reprint be created in accordance with this action.

VALERIE WIENER	OLIVIA DIAZ
RUBEN KIHUEN	ELLIOT ANDERSON
	LYNN STEWART
Senate Conference Committee	*Assembly Conference Committee*

Senator Wiener moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 39.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Assembly Bill No. 40, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 599 of the Senate be concurred in.

RUBEN KIHUEN	MARILYN DONDERO LOOP
VALERIE WIENER	DINA NEAL
DON GUSTAVSON	MELISSA WOODBURY
Senate Conference Committee	*Assembly Conference Committee*

Senator Kihuen moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 40.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Assembly Bill No. 362, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 610 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 1, which is attached to and hereby made a part of this report.

"SUMMARY—Revises provisions governing ~~[education.]~~ **certain programs that supervise children.** **(**BDR 38-782)"

"AN ACT relating to education; establishing the Interim Task Force on Out-of-School-Time Programs; requiring the Task Force to prescribe standards for out-of-school-time programs and to make certain recommendations relating to out-of-school-time programs; exempting ~~[an]~~ out-of-school-time ~~[program]~~ **programs, out-of-school recreation programs and seasonal or temporary recreation programs** from licensure and regulation as ~~[a]~~ child care ~~[facility;]~~ **facilities; requiring certain out-of-school recreation programs to obtain a permit; establishing certain requirements for the operation of an out-of-school recreation program;** authorizing an out-of-school-time program to report certain information to the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a child care facility to be licensed by an agency created by a city or county for the licensing of child care facilities or by the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services. (NRS 432A.131, 432A.141) Section 13 of this bill removes the licensure requirements for out-of-school-time programs, out-of-school recreation programs and seasonal or temporary recreation programs by excluding those terms from the definition of "child care facility."

Section 2 of this bill defines an "out-of-school-time program" as a program that operates for 10 or more hours per week, is offered on a continuing basis, provides supervision of children who are of school age and provides regularly scheduled, structured and supervised activities where learning opportunities take place during times when a child is not in school. ~~[Section 5 of this bill exempts an out-of-school-time program from the licensing requirements for and regulation as a child care facility by excluding an out-of-school-time program from the definition of a "child care facility." Sections 6-8 of this bill ensure that the existing definition of "child care facility" is not changed for certain other purposes.]~~ **Section 4 of this bill defines an**

"out-of-school recreation program" which is similar to an out-of-school-time program, but which is operated or sponsored by a local government in a facility which is owned, operated or leased by the local government. Section 5 of the bill defines "seasonal or temporary recreation programs" which include certain programs offered to children for a limited time or duration.

In lieu of the requirements for licensure as a child care facility, sections 6-11 of this bill provide specific requirements for out-of-school recreation programs. Section 6 requires a local government to obtain a permit to operate an out-of-school recreation program. To obtain a permit, the local government must complete an application, pay a fee and meet certain requirements. Section 7 requires a local government that operates an out-of-school recreation program to comply with certain health and safety standards and to comply with other requirements relating to the safety of participants. Section 8 provides certain requirements for the staff of an out-of-school recreation program. Section 8 also limits the number of participants in such a program and establishes certain components that must be included in the program. Section 9 requires an out-of-school recreation program to maintain certain records about participants in the program. Section 10 requires a local government that operates an out-of-school recreation program to provide copies of certain inspections of the facility where the program is conducted according to a schedule established by the Bureau. If the local government submits such records, section 10 prohibits the Bureau from conducting any additional on-site inspections of the facility. Section 11 authorizes the Bureau to adopt any regulations necessary to provide for the permits to operate an out-of-school recreation program.

Section ~~[9]~~ **17** of this bill establishes the Interim Task Force on Out-of-School-Time Programs and requires the Task Force to prescribe standards for out-of-school-time programs and make certain other recommendations concerning out-of-school-time programs. **Section** ~~[9]~~ **17** also requires the Task Force to submit a report of its recommendations to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature.

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

Section 1. Chapter 432A of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2 and 3]~~ **1.5 to 11, inclusive,** of this act.

Sec. 1.5. ***"Local government" means any political subdivision of this State, including, without limitation, a city, county, town, school district or other district.***

Sec. 2. ***"Out-of-school-time program" means a program , other than an out-of-school recreation program, that operates for 10 or more hours per week, is offered on a continuing basis, provides supervision of children who are of the age to attend school from kindergarten through 12th grade and provides regularly scheduled, structured and supervised activities where learning opportunities take place:***

1. Before or after school;

2. On the weekend;

3. During the summer or other seasonal breaks in the school calendar; or

4. Between sessions for children who attend a school which operates on a year-round calendar.

Sec. 3. (Deleted by amendment.)

Sec. 4. ***1. "Out-of-school recreation program" means a recreation program operated or sponsored by a local government in a facility which is owned, operated or leased by the local government and which provides enrichment activities to children of school age:***

(a) Before or after school;

(b) During the summer or other seasonal breaks in the school calendar; or

(c) Between sessions for children who attend a school which operates on a year-round calendar.

2. The term does not include a seasonal or temporary recreation program.

Sec. 5. ***"Seasonal or temporary recreation program" means a recreation program that is offered to children for a limited time or duration and may include, without limitation:***

1. A special sports event, which may include, without limitation, a camp, clinic, demonstration or workshop which focuses on a particular sport;

2. A therapeutic program for children with disabilities, which may include, without limitation, social activities, outings and other inclusion activities;

3. An athletic training program, which may include, without limitation, a baseball or other sports league and exercise instruction; and

4. Other special interest programs, which may include, without limitation, an arts and crafts workshop, a theater camp and dance competition.

Sec. 6. 1. To operate an out-of-school recreation program, a local government must obtain a permit. The local government may apply for the issuance or renewal of a permit by submitting an application on a form prescribed by the Bureau. The Bureau shall issue a permit to operate an out-of-school recreation program to the local government upon payment of the fee prescribed in subsection 2 and upon satisfaction that the program complies with the requirements set forth in sections 1.5 to 11, inclusive, of this act, and any regulations adopted pursuant thereto.

2. The Bureau shall charge a fee for a permit to operate an out-of-school recreation program based upon the number of sites operated by the out-of-school recreation program. If the out-of-school recreation program has:

(a) At least 1 but not more than 5 sites, the Bureau shall charge a fee of $100.

(b) At least 6 but not more than 20 sites, the Bureau shall charge a fee of $250.

(c) At least 21 but not more than 40 sites, the Bureau shall charge a fee of $500.

(d) At least 41 but not more than 60 sites, the Bureau shall charge a fee of $750.

(e) At least 61 but not more than 80 sites, the Bureau shall charge a fee of $1,000.

(f) At least 81 sites, the Bureau shall charge a fee of $1,250.

3. A permit issued pursuant to this section is nontransferable and is valid:

(a) For 3 years from the date of issuance; and

(b) Only as to a site specifically identified on the permit.

Sec. 7. A local government that operates an out-of-school recreation program shall ensure that each site:

1. Complies with applicable laws and regulations concerning safety standards;

2. Complies with applicable laws and regulations concerning health standards;

3. Has a complete first-aid kit accessible on-site that complies with the requirements of the Occupational Safety and Health Administration of the United States Department of Labor;

4. Has an emergency exit plan posted on-site in a conspicuous place; and

5. Has not less than two staff members on-site and available during the hours of operation who are certified and receive annual training in the use and administration of first aid, including, without limitation, cardiopulmonary resuscitation.

Sec. 8. A local government that operates an out-of-school recreation program shall:

1. Complete, for each member of the staff of the out-of-school recreation program:

(a) A background and personal history check; and

(b) A child abuse and neglect screening through the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against the staff member.

2. Ensure that each member of the staff of the out-of-school recreation program:

(a) Meets the minimum requirements that have been established for the position; and

(b) Receives an orientation and training concerning the abuse and neglect of children.

3. Ensure that the number of participants in the out-of-school recreation program:

(a) Does not exceed a ratio of one person supervising every 20 participants; and

(b) Will not cause the facility where the program is operated to exceed the maximum occupancy as determined by the State Fire Marshal or the local governmental entity that has the authority to determine the maximum occupancy of the facility.

4. Ensure that the out-of-school recreation program includes, without limitation:

(a) An inclusion component for participants who qualify under the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.;

(b) Structured activities, including, without limitation, arts and crafts, games and sports;

(c) Nonstructured activities, which may include, without limitation, free time for playing;

(d) Regular restroom breaks; and

(e) Nutrition breaks.

Sec. 9. 1. The out-of-school recreation program shall maintain records containing pertinent information regarding each participant in the program. Such information must include, without limitation:

(a) The full legal name of the child and the preferred name of the child;

(b) The date of birth of the child;

(c) The current address where the child resides;

(d) The name, address and telephone number of each parent or legal guardian of the child and any special instructions for contacting the parent or legal guardian during the hours when the child participates in the program;

(e) Information concerning the health of the child, including, without limitation, any special needs of the child; and

(f) Any other information requested by the Bureau.

2. The distribution of any information maintained pursuant to this section is subject to the limitations set forth in NRS 239.0105.

Sec. 10. 1. A local government that operates an out-of-school recreation program shall provide a copy of each report of an inspection conducted by a governmental entity that is authorized to conduct an inspection of the facility where the program is operated, including, without limitation, the report of an inspection by a local building department, a fire department, the State Fire Marshal or a district board of health.

2. The Bureau shall establish a schedule for the submission of such reports which requires submission of a report of an on-site inspection once every 2 years and shall provide a checklist to the local government which identifies the reports that must be submitted to the Bureau.

3. The Bureau shall not require any additional inspections of the facility of an out-of-school recreation program which complies with the provisions of this section.

Sec. 11. The Bureau shall adopt any regulations necessary to carry out the provisions of sections 1.5 to 11, inclusive, of this act.

~~[Sec. 4.]~~ ***Sec. 12.*** NRS 432A.020 is hereby amended to read as follows:

432A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432A.0205 to 432A.028, inclusive, ***and*** ~~*[section]*~~ ***sections 1.5, 2 , 4 and 5 of this act*** have the meanings ascribed to them in those sections.

~~[Sec. 5.]~~ ***Sec. 13.*** NRS 432A.024 is hereby amended to read as follows:

432A.024 1. "Child care facility" means:

(a) An establishment operated and maintained for the purpose of furnishing care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children;

(b) An on-site child care facility;

(c) A child care institution; or

(d) An outdoor youth program.

2. "Child care facility" does not include:

(a) The home of a natural parent or guardian, foster home as defined in NRS 424.014 or maternity home;

(b) A home in which the only children received, cared for and maintained are related within the third degree of consanguinity or affinity by blood, adoption or marriage to the person operating the facility; ~~[or]~~

(c) A home in which a person provides care for the children of a friend or neighbor for not more than 4 weeks if the person who provides the care does not regularly engage in that activity ~~[.]~~ ***; ~~[or]~~***

(d) A location at which an out-of-school-time program is operated ~~[.]~~ ;

(e) A seasonal or temporary recreation program; or

(f) An out-of-school recreation program.

~~[Sec. 6.]~~ ***Sec. 14.*** NRS 202.2483 is hereby amended to read as follows:

202.2483 1. Except as otherwise provided in subsection 3, smoking tobacco in any form is prohibited within indoor places of employment including, but not limited to, the following:

(a) Child care facilities;

(b) Movie theatres;

(c) Video arcades;

(d) Government buildings and public places;

(e) Malls and retail establishments;

(f) All areas of grocery stores; and

(g) All indoor areas within restaurants.

2. Without exception, smoking tobacco in any form is prohibited within school buildings and on school property.

3. Smoking tobacco is not prohibited in:

(a) Areas within casinos where loitering by minors is already prohibited by state law pursuant to NRS 463.350;

(b) Stand-alone bars, taverns and saloons;

(c) Strip clubs or brothels;

(d) Retail tobacco stores;

(e) Private residences, including private residences which may serve as an office workplace, except if used as a child care, an adult day care or a health care facility; and

(f) The area of a convention facility in which a meeting or trade show is being held, during the time the meeting or trade show is occurring, if the meeting or trade show:

(1) Is not open to the public;

(2) Is being produced or organized by a business relating to tobacco or a professional association for convenience stores; and

(3) Involves the display of tobacco products.

4. In areas or establishments where smoking is not prohibited by this section, nothing in state law shall be construed to prohibit the owners of said establishments from voluntarily creating nonsmoking sections or designating the entire establishment as smoke free.

5. Nothing in state law shall be construed to restrict local control or otherwise prohibit a county, city or town from adopting and enforcing local tobacco control measures that meet or exceed the minimum applicable standards set forth in this section.

6. "No Smoking" signs or the international "No Smoking" symbol shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this section. Each public place and place of employment where smoking is prohibited shall post, at every entrance, a conspicuous sign clearly stating that smoking is prohibited. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited.

7. Health authorities, police officers of cities or towns, sheriffs and their deputies shall, within their respective jurisdictions, enforce the provisions of this section and shall issue citations for violations of this section pursuant to NRS 202.2492 and 202.24925.

8. No person or employer shall retaliate against an employee, applicant or customer for exercising any rights afforded by, or attempts to prosecute a violation of, this section.

9. For the purposes of this section, the following terms have the following definitions:

(a) "Casino" means an entity that contains a building or large room devoted to gambling games or wagering on a variety of events. A casino must possess a nonrestricted gaming license as described in NRS 463.0177 and typically uses the word 'casino' as part of its proper name.

(b) "Child care facility" has the meaning ascribed to it in NRS ~~[~~432A.024.~~]~~ ***441A.030.***

(c) "Completely enclosed area" means an area that is enclosed on all sides by any combination of solid walls, windows or doors that extend from the floor to the ceiling.

(d) "Government building" means any building or office space owned or occupied by:

(1) Any component of the Nevada System of Higher Education and used for any purpose related to the System;

(2) The State of Nevada and used for any public purpose; or

(3) Any county, city, school district or other political subdivision of the State and used for any public purpose.

(e) "Health authority" has the meaning ascribed to it in NRS 202.2485.

(f) "Incidental food service or sales" means the service of prepackaged food items including, but not limited to, peanuts, popcorn, chips, pretzels or any other incidental food items that are exempt from food licensing requirements pursuant to subsection 2 of NRS 446.870.

(g) "Place of employment" means any enclosed area under the control of a public or private employer which employees frequent during the course of employment including, but not limited to, work areas, restrooms, hallways, employee lounges, cafeterias, conference and meeting rooms, lobbies and reception areas.

(h) "Public places" means any enclosed areas to which the public is invited or in which the public is permitted.

(i) "Restaurant" means a business which gives or offers for sale food, with or without alcoholic beverages, to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere.

(j) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(k) "School building" means all buildings on the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(l) "School property" means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(m) "Stand-alone bar, tavern or saloon" means an establishment devoted primarily to the sale of alcoholic beverages to be consumed on the premises, in which food service is incidental to its operation, and provided that smoke from such establishments does not infiltrate into areas where smoking is prohibited under the provisions of this section. In addition, a stand-alone bar, tavern or saloon must be housed in either:

(1) A physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplaces where smoking is prohibited by this section; or

(2) A completely enclosed area of a larger structure, such as a strip mall or an airport, provided that indoor windows must remain shut at all times and doors must remain closed when not actively in use.

(n) "Video arcade" has the meaning ascribed to it in paragraph (d) of subsection 3 of NRS 453.3345.

10. Any statute or regulation inconsistent with this section is null and void.

11. The provisions of this section are severable. If any provision of this section or the application thereof is declared by a court of competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect the validity of the section as a whole or any provision thereof other than the part declared to be invalid or unconstitutional.

~~[Sec. 7.]~~ ***Sec. 15.*** NRS 441A.030 is hereby amended to read as follows:

441A.030 ***1.*** "Child care facility" ~~[has the meaning ascribed to it in NRS 432A.024.]~~ ***means:***

(a) An establishment operated and maintained for the purpose of furnishing care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children;

(b) An on-site child care facility as defined in NRS 432A.0275;

(c) A child care institution as defined in NRS 432A.0245; or

(d) An outdoor youth program as defined in NRS 432A.028.

2. "Child care facility" does not include:

(a) The home of a natural parent or guardian, foster home as defined in NRS 424.014 or maternity home;

(b) A home in which the only children received, cared for and maintained are related within the third degree of consanguinity or affinity by blood, adoption or marriage to the person operating the facility; or

(c) A home in which a person provides care for the children of a friend or neighbor for not more than 4 weeks if the person who provides the care does not regularly engage in that activity.

~~[Sec. 8.]~~ ***Sec. 16.*** NRS 444.065 is hereby amended to read as follows:

444.065 1. Except as otherwise provided in subsection 2, as used in NRS 444.065 to 444.120, inclusive, "public swimming pool" means any structure containing an artificial body of water that is intended to be used collectively by persons for swimming or bathing, regardless of whether a fee is charged for its use.

2. The term does not include any such structure at:

(a) A private residence if the structure is controlled by the owner or other authorized occupant of the residence and the use of the structure is limited to members of the family of the owner or authorized occupant of the residence or invited guests of the owner or authorized occupant of the residence.

(b) A family foster home as defined in NRS 424.013.

(c) A child care facility, as defined in NRS ~~[432A.024,]~~ ***441A.030,*** furnishing care to 12 children or less.

(d) Any other residence or facility as determined by the State Board of Health.

(e) Any location if the structure is a privately owned pool used by members of a private club or invited guests of the members.

~~[Sec. 9.]~~ ***Sec. 17.*** 1. There is hereby created the Interim Task Force on Out-of-School-Time Programs. The Task Force is composed of the following 12 members:

(a) A representative of the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services, appointed by the Administrator of the Division;

(b) A representative of local governmental agencies that provide public services for children, appointed by the Nevada Association of Counties or its successor organization;

(c) A representative of the Nevada System of Higher Education, appointed by the Board of Regents of the University of Nevada;

(d) A representative of the public schools in this State, appointed by the State Board of Education;

(e) A representative of a national nonprofit organization that provides services to children, appointed by the Legislative Commission;

(f) A representative of a nonprofit organization that is located in Nevada and provides services to children, appointed by the Legislative Commission;

(g) A representative of a nonprofit organization that is located in Nevada and provides support to an out-of-school-time program, appointed by the Legislative Commission;

(h) A representative of a private, for profit organization that is located in Nevada and provides services to children, appointed by the Legislative Commission;

(i) A representative of an agency that provides resources and referrals to out-of-school-time programs, appointed by the Legislative Commission;

(j) A representative of a faith-based organization that provides services to children, appointed by the Legislative Commission; and

(k) Two members who are parents of children in this State, appointed by the Legislative Commission.

2. The Administrator of the Division of Child and Family Services of the Department of Health and Human Services, the Nevada Association of Counties, the Board of Regents of the University of Nevada, the State Board of Education and the Legislative Commission shall appoint the members of the Task Force as soon as practicable after July 1, 2011. A vacancy on the Task Force must be filled in the same manner as the original appointment.

3. The Task Force shall meet on or before October 1, 2011, and at its first meeting the members of the Task Force shall elect a Chair from among the members. A majority of the members of the Task Force constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Task Force.

4. The Task Force shall meet at least once every 3 months and at the call of the Chair or a majority of the members of the Task Force.

5. Each member of the Task Force serves without compensation. Each member of the Task Force who is an officer or employee of the State or a local government must be relieved from his or her duties without loss of his or her regular compensation to prepare for and attend meetings of the Task Force and perform any work necessary to carry out the duties of the Task Force in

the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Task Force to make up the time the member is absent from work to carry out his or her duties as a member and shall not require the member to take annual vacation or compensatory time for the absence.

6. The Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services shall provide administrative support to the Task Force and may accept assistance from a nonprofit organization in providing such support.

7. The Task Force shall:

(a) Prescribe standards for out-of-school-time programs;

(b) Make recommendations concerning out-of-school-time programs and the implementation of the standards prescribed by the Task Force, including, without limitation, recommendations for a pilot program for the standards; and

(c) Make recommendations concerning whether out-of-school-time programs should be licensed and regulated by the Bureau of Services for Child Care.

8. The Task Force shall, on or before June 30, 2012, submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature. The report must include, without limitation:

(a) A full and detailed description of the standards for out-of-school-time programs prescribed by the Task Force;

(b) Recommendations concerning the establishment of a pilot program for the standards prescribed by the Task Force;

(c) Recommendations concerning whether out-of-school-time programs should be licensed and regulated by the Bureau of Services for Child Care; and

(d) Any other recommendations for legislation relating to out-of-school-time programs.

9. An out-of-school-time program may register with the Bureau of Services for Child Care or other entity designated by the Bureau. By registering with the Bureau, the out-of-school-time program agrees to comply with the standards established by the Task Force and to participate in any pilot project established pursuant to subsection 8.

10. As used in this section, "out-of-school-time program" has the meaning ascribed to it in section 2 of this act.

~~[Sec. 10.]~~ ***Sec. 18.*** 1. This act becomes effective on July 1, 2011.

2. Section ~~[9]~~ **17** of this act expires by limitation on June 30, 2013.

RUBEN KIHUEN	JASON FRIERSON
JOE HARDY	TERESA BENITEZ-THOMPSON
ALLISON COPENING	SCOTT HAMMOND
Senate Conference Committee	*Assembly Conference Committee*

Senator Kihuen moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 362.

Motion carried by a constitutional majority.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 307, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bill No. 485; Assembly Bills Nos. 486, 490, 491, 492, 493, 495, 546, 563, 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. 265, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 404, 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*

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 503—AN ACT relating to state financial administration; authorizing expenditures by various officers, departments, boards, agencies, commissions and institutions of the State Government for the fiscal years commencing on July 1, 2011, and ending on June 30, 2012, and beginning on July 1, 2012, and ending on June 30, 2013; authorizing the collection of certain amounts from the counties for the use of the services of the State Public Defender; revising the provisions governing the Secretary of State's General Fund Budget Account; eliminating the provision of guardianship services by Office of Veterans' Services; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 504—AN ACT relating to projects of capital improvement; authorizing certain expenditures by the State Public Works Board; levying a property tax to support the Consolidated Bond Interest and Redemption Fund; making appropriations; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 505—AN ACT relating to public employees; establishing the maximum allowed salaries for certain employees in the classified and unclassified service of the State; requiring employees of the State to take a certain number of days of unpaid furlough leave during the 2011-2013 biennium; providing exceptions to the furlough requirement; making appropriations from the State General Fund and State Highway Fund for the salaries of certain employees of the State; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 574.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 485.

Bill read second time and ordered to third reading.

Assembly Bill No. 307.

Bill read second time.

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

Amendment No. 902.

"SUMMARY—Enacts provisions governing energy development projects. (BDR 45-872)"

"AN ACT relating to governmental administration; requiring a person who files certain applications for an energy development project to file a notice concurrently with the Department of Wildlife; requiring the Department of Wildlife to adopt regulations for the provision of information relating to wildlife based on the location of an energy development project; ~~[authorizing a developer of an energy development project to request the Director of the Office of Energy to coordinate certain discussions relating to an energy development project in certain circumstances;]~~ creating the Energy Planning and Conservation Fund; requiring the Department of Wildlife to use money from the Energy Planning and Conservation Fund for certain wildlife activities; creating the Fund for the Recovery of Costs; requiring the Department of Wildlife to use money from the Fund for the Recovery of Costs solely to provide certain information relating to wildlife based on the location of an energy development project; **requiring the Director of the Office of Energy to coordinate certain discussions with interested parties relating to an energy development project in certain circumstances;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law creates the Department of Wildlife and requires the Department to administer the wildlife laws of this State. (NRS 501.331) Existing law also creates the Office of Energy within the Office of the Governor to analyze, review and study the use of energy and availability of energy in this State, as well as to coordinate activities with other agencies to administer programs related to the use of renewable energy and to conserve or reduce the demand for energy. (NRS 701.150, 701.180) This bill requires the Department of Wildlife and the Office of Energy to cooperate in acting as a resource for the Federal Government, the Public Utilities Commission of Nevada, the counties of this State and the public by compiling and providing certain information relating to certain energy development projects.

Section 5 of this bill defines an "energy development project" as any project for the generation, transmission and development of energy, whether on public or private land. **Section 6** of this bill exempts from the provisions of this bill a project that has a generating capacity of less than 10 megawatts.

Section 7 of this bill requires any person who files an application with the Federal Government for a lease or easement for a right-of-way for an energy development project or an application with the Public Utilities Commission of Nevada or any county in this State relating to the construction of an energy development project to file a notice concurrently with the Department of Wildlife. The notice required by **section 7** must include a description of the location, boundaries and estimated infrastructure requirements for the project and a description of the project itself and an estimate of the energy output of the project. **Section 7** further requires the Department to provide a copy of the notice to the Office of Energy and requires the Department, in consultation with the Office of Energy, to adopt regulations to provide for making reasonable deposits and reimbursing the Department for providing information relating to wildlife or wildlife habitat based on the location of an energy development project. ~~[and to allow for developers to request the Director of the Office of Energy to coordinate discussions with interested parties concerning the potential effects of energy development projects.]~~

Section 9 of this bill creates the Energy Planning and Conservation Fund and requires the money in the Fund to be administered by the Director of the Department of Wildlife and used by the Department in accordance with the State Wildlife Action Plan for conducting surveys of wildlife, for mapping locations of wildlife and its habitat, for conservation projects for the habitat of wildlife impacted by energy development projects and to match any federal money for a project or program for the conservation of any species of wildlife which is of critical concern. **Section 9.5** of this bill creates the Fund for the Recovery of Costs and requires the money in the Fund to be administered by the Director of the Department of Wildlife and used by the Department solely to provide to the Federal Government, the Public Utilities Commission of Nevada or any person with information relating to wildlife or wildlife habitat based on the location of an energy development project or to match any federal money for a project or program for the conservation of any species of wildlife.

Section 8 of this bill requires the Department of Wildlife to compile and maintain information on all energy development projects for which notice is filed pursuant to **section 7** and to prepare and submit a report detailing such projects to the Legislative Commission in even-numbered years and, in odd-numbered years, to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Section 11 of this bill expands the duties of the Director of the Office of Energy to include coordinating discussions with interested parties concerning the potential effects of energy development projects.

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

Section 1. NRS 501.331 is hereby amended to read as follows:

501.331 The Department of Wildlife is hereby created. The Department:

1. Shall administer the wildlife laws of this State ***,*** ~~[and]~~ chapter 488 of NRS ~~[.]~~ ***and sections 7 to 9.5, inclusive, of this act.***

2. Shall, on or before the fifth calendar day of each regular session of the Legislature, submit to the Legislature a financial report for each of the immediately preceding 2 fiscal years setting forth the activity and status of the Wildlife Obligated Reserve Account in the State General Fund, each subaccount within that Account and any other account or subaccount administered by the Department for which the use of the money in the account or subaccount is restricted. The report must include, without limitation:

(a) A description of each project for which money is expended from each of those accounts and subaccounts and a description of each recipient of that money; and

(b) The total amount of money expended from each of those accounts and subaccounts for each fiscal year, including, without limitation, the amount of any matching contributions received for those accounts and subaccounts for each fiscal year.

Sec. 2. NRS 501.337 is hereby amended to read as follows:

501.337 The Director shall:

1. Carry out the policies and regulations of the Commission.

2. Direct and supervise all administrative and operational activities of the Department, and all programs administered by the Department as provided by law. Except as otherwise provided in NRS 284.143, the Director shall devote his or her entire time to the duties of the office and shall not follow any other gainful employment or occupation.

3. Within such limitations as may be provided by law, organize the Department and, from time to time with the consent of the Commission, may alter the organization. The Director shall reassign responsibilities and duties as he or she may deem appropriate.

4. Appoint or remove such technical, clerical and operational staff as the execution of his or her duties and the operation of the Department may require, and all those employees are responsible to the Director for the proper carrying out of the duties and responsibilities of their respective positions. The Director shall designate a number of employees as game wardens and provide for their training.

5. Submit technical and other reports to the Commission as may be necessary or as may be requested, which will enable the Commission to establish policy and regulations.

6. Prepare, in consultation with the Commission, the biennial budget of the Department consistent with the provisions of this title ***,*** ~~[and]~~ chapter 488 of NRS ***and sections 7 to 9.5, inclusive, of this act*** and submit it to the

Commission for its review and recommendation before the budget is submitted to the Chief of the Budget Division of the Department of Administration pursuant to NRS 353.210.

7. Administer real property assigned to the Department.

8. Maintain full control, by proper methods and inventories, of all personal property of the State acquired and held for the purposes contemplated by this title and by chapter 488 of NRS.

9. Act as nonvoting Secretary to the Commission.

10. Adopt the regulations required pursuant to sections 7 and 9 of this act.

Sec. 3. 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 **,** ~~[or in]~~ the Trout Management Account pursuant to NRS 502.327**,** ***the Energy Planning and Conservation Fund created by section 9 of this act or the Fund for the Recovery of Costs created by section 9.5 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. 4. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 9.5, inclusive, of this act.

Sec. 5. ***"Energy development project" means a project for the generation, transmission and development of energy located on public or private land. The term includes, without limitation:***

1. A utility facility, as defined in NRS 704.860, constructed on private land; and

2. Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity.

Sec. 6. ***The provisions of sections 7, 8 and 9 of this act do not apply to a project that has a generating capacity of less than 10 megawatts.***

Sec. 7. ***1. Except as otherwise provided in section 6 of this act, a person who files an application with the Federal Government for a lease or easement for a right-of-way for an energy development project or an application with the Public Utilities Commission of Nevada or any county in this State relating to the construction of an energy development project shall, concurrently with the filing of the application, file a notice of the energy development project with the Department of Wildlife.***

2. The notice required by subsection 1 must be provided to the Department of Wildlife in such form as the Department prescribes and contain:

(a) A description of the location and the energy development project to be built thereon;

(b) A description of the boundaries of the project and the estimated requirements for infrastructure of the project; and

(c) The estimated energy output for the energy development project.

3. Within 30 days after a notice is filed pursuant to subsection 1, the Department of Wildlife shall provide a copy of the notice to the Office of Energy.

4. The Department of Wildlife shall, in consultation with the Office of Energy, adopt regulations to carry out the provisions of this section. The regulations must include, without limitation:

(a) Provisions setting forth the requirements for making reasonable deposits and reimbursing the Department of Wildlife for the actual costs, not to exceed $100,000, incurred by the Department of Wildlife for providing to the Federal Government, the Public Utilities Commission of Nevada, an applicant or any county in this State any information relating to any wildlife or wildlife habitat based on the location of the energy development project for which a notice is filed pursuant to subsection 1; and

(b) ~~*[Provisions setting forth the requirements for allowing a developer of an energy development project or a local government in a county in which an energy development project is proposed to be located to request the Director of the Office of Energy to coordinate discussions, not otherwise required by any existing regulatory agency, with interested parties concerning any potential effect of the energy development project; and*~~

~~*(c)]*~~ ***Except as otherwise provided in subsection 5, any other requirements concerning the filing of a notice pursuant to subsection 1.***

5. Any regulations adopted pursuant to subsection 4 must not require a person to reimburse any costs incurred by the Department of Wildlife for providing any information requested by the Federal Government, the Public Utilities Commission of Nevada or an applicant relating to an energy development project that was previously provided pursuant to paragraph (a) of subsection 4.

Sec. 8. *The Department of Wildlife shall:*

1. Compile and maintain detailed information concerning each energy development project for which notice is filed pursuant to section 7 of this act. The information must include, without limitation:

(a) The location of the energy development project;

(b) A description of the energy development project;

(c) The estimated energy output of the energy development project; and

(d) The amount charged for the reimbursement of costs for the energy development project in accordance with the regulations specified in subsection 4 of section 7 of this act.

2. Prepare a report:

(a) Containing the information compiled pursuant to subsection 1; and

(b) Setting forth the effect, if any, on the budget of the Department of Wildlife as a result of receiving the reimbursement of costs for providing information concerning energy development projects and the manner in which the total amount received for those costs was used by the Department of Wildlife.

3. On or before January 1 of each even-numbered year, submit the report required pursuant to subsection 2 to the Legislative Commission. On or before January 1 of each odd-numbered year, the Department of Wildlife shall submit the report required pursuant to subsection 2 to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Sec. 9. *1. The Energy Planning and Conservation Fund is hereby created in the State Treasury as a special revenue fund.*

2. The Director of the Department of Wildlife may apply for and accept any gift, donation, bequest, grant or other source of money for use by the Fund. Any money so received must be deposited in the State Treasury for credit to the Fund.

3. The Fund is a continuing fund without reversion. The money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

4. The Director of the Department of Wildlife shall administer the Fund. The money in the Fund must be used in accordance with the State Wildlife Action Plan and used by the Department of Wildlife:

(a) To conduct surveys of wildlife;

(b) To map locations of wildlife and wildlife habitat in this State;

(c) To pay for conservation projects for wildlife and its habitat;

(d) To match any federal money for a project or program for the conservation of any species of wildlife which is of critical concern; and

(e) To coordinate carrying out the provisions of this subsection in cooperation with the Office of Energy.

5. The Department of Wildlife shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation, the criteria for projects for which the Department of Wildlife may use money from the Fund.

6. As used in this section, "State Wildlife Action Plan" means a statewide plan prepared by the Department of Wildlife and approved by the United States Fish and Wildlife Service which sets forth provisions for the conservation of wildlife and wildlife habitat, including, without limitation, provisions for assisting in the prevention of any species of wildlife from becoming threatened or endangered.

Sec. 9.5. ***1. The Fund for the Recovery of Costs is hereby created in the State Treasury as a special revenue fund.***

2. All money collected by the Department of Wildlife in accordance with regulations adopted pursuant to section 7 of this act must be deposited in the State Treasury for credit to the Fund.

3. The Fund is a continuing fund without reversion. The money in the Fund must be invested as the money in other state funds is invested.

4. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

5. The Director of the Department of Wildlife may apply for and accept any gift, donation, bequest, grant or other source of money for use by the Fund. Any money so received must be deposited in the State Treasury for credit to the Fund. If the Director of the Department of Wildlife receives any matching federal money which is credited to the Fund pursuant to this subsection, the amount of money credited may be transferred to the Energy Planning and Conservation Fund created by section 9 of this act.

6. The Director of the Department of Wildlife shall administer the Fund. The money in the Fund must be used by the Department of Wildlife solely:

(a) To provide to the Federal Government, the Public Utilities Commission of Nevada or any person any information relating to wildlife or wildlife habitat based on the location of an energy development project; or

(b) To match any federal money for a project or program for the conservation of any species of wildlife.

Sec. 10. 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 to 701.090, inclusive, ***and section 5 of this act*** have the meanings ascribed to them in those sections.

Sec. 11. 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 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. ***Cooperate with the Department of Wildlife in carrying out the provisions of sections 6 to 9.5, inclusive, of this act.***

8. Upon request by a developer of an energy development project or a local government in a county in which an energy development project is proposed to be located, coordinate discussions, not otherwise required by any existing regulatory agency, with interested parties concerning any potential effect of the energy development project.

9. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 12. The Department of Wildlife shall, before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 13. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On October 1, 2011, for all other purposes.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 902 to Assembly Bill No. 307 transfers the responsibility for adopting regulations regarding coordination of discussions with interested parties concerning any potential effect of an energy development project to the Director of the Office of Energy, instead of the Department of Wildlife.

Amendment adopted.

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

Assembly Bill No. 404.

Bill read second time.

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

Amendment No. 895.

"SUMMARY—Revises provisions regarding properties leased for use by the State. (BDR 27-381)"

"AN ACT relating to state buildings; requiring the Chief of the Buildings and Grounds Division of the Department of Administration to negotiate and approve any agreements to lease office rooms for use by certain state entities; requiring certain state entities to provide the Chief with an inventory of all real property used by the entity; requiring the Chief to post on an Internet website certain information regarding **certain** real property owned or leased by the State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Chief of the Buildings and Grounds Division of the Department of Administration is authorized to lease and equip office rooms outside of state buildings for the use of certain state officers and employees whenever sufficient space cannot be provided within state buildings. (NRS 331.110) **Section 1** of this bill requires that any agreement to lease office rooms for state officers, departments, agencies, commissions or boards must be negotiated, approved and overseen by the Chief. **Section 1** also requires state officers, departments, agencies, commissions and boards to provide the Chief with an inventory of all real property leased to the State that is used by the state officer, department, agency, commission or board. **Section 1** further requires the Chief to post, on an Internet website, a list of ~~[all]~~ real property that is leased or owned by the State, including a brief description of the property, its use and the terms of the agreement under which the property is leased by the State ~~.[.]~~ **, except that the information must not be posted if the Chief of the Budget Division of the Department of Administration deems the information to be confidential. Such information may be deemed confidential if the state officer or public entity that uses the property requests that the information be kept confidential to maintain public safety. If the information is deemed confidential, the Chief of the Budget Division is required to inform the Chief of the Buildings and Grounds Division.** **Sections 2, 3 and 4** of this bill extend the requirements of **section 1** to properties leased for use by the Gaming Control Board, the Department of Public Safety and the Department of Motor Vehicles, which are currently exempted from certain requirements relating to the lease or purchase of property. (NRS 463.100, 480.160, 481.055)

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

Section 1. NRS 331.110 is hereby amended to read as follows:

331.110 1. Except as otherwise provided ~~[in subsection 2,]~~ ***by law,*** the Chief ***of the Buildings and Grounds Division*** may lease and equip office rooms outside of state buildings for the use of state officers **,** ~~[and~~

~~employees,~~] ***departments, agencies, boards and commissions*** whenever sufficient space ~~[for the officers and employees]~~ cannot be provided within state buildings ***. The Chief of the Buildings and Grounds Division shall negotiate, approve and oversee any agreement to lease office rooms pursuant to this section***, but no such lease may extend beyond the term of 1 year unless it is reviewed and approved by a majority of the members of the State Board of Examiners. The Attorney General shall approve each lease entered into pursuant to this subsection as to form and compliance with law.

2. Notwithstanding any other provision of law, before the Chief of the Buildings and Grounds Division enters into any lease for office rooms for any state officer, department, agency, board or commission, the Chief of the Buildings and Grounds Division shall consider, without limitation:

(a) The reasonableness of the terms of the agreement, including, without limitation, the cost; and

(b) The availability of space for use by the state officer, department, agency, board or commission in buildings that are owned by or leased to the State.

3. Each state officer, department, agency, board and commission shall maintain and provide to the Chief of the Buildings and Grounds Division an inventory of all real property leased to the State that is occupied by or otherwise used by the state officer, department, agency, board and commission. The Division of State Lands, Department of Transportation and State Public Works Board shall maintain and provide to the Chief of the Buildings and Grounds Division an inventory of all real property owned by the State.

4. ~~[The]~~ Except as otherwise provided in subsection 6, the Chief of the Buildings and Grounds Division shall post on an Internet website maintained by the State a list of all real property owned or leased by the State. Each such listing shall include, without limitation, a brief description of:

(a) The location, size and current use of the real property; and

(b) The terms of the lease, including, without limitation, the cost to the State.

~~[2. The provisions of subsection 1 do not apply to state officers and employees of boards that are exempt from the provisions of chapter 353 of NRS pursuant to NRS 353.005.]~~

5. Before submitting the inventory to the Chief of the Buildings and Grounds Division pursuant to subsection 3, a state officer, department, agency, board, commission, the Division of State Lands, Department of Transportation or State Public Works Board that uses the property may request the Chief of the Budget Division of the Department of Administration to deem information regarding the property confidential for the purpose of maintaining public safety.

6. If the Chief of the Budget Division deems information regarding property to be confidential pursuant to subsection 5, the information

concerning the property must be kept confidential and is not a public book or record within the meaning of NRS 239.010. The Chief of the Budget Division must inform the Chief of the Buildings and Grounds Division that the information is confidential and that the information must not be posted on an Internet website maintained by the State pursuant to subsection 4.

Sec. 2. NRS 463.100 is hereby amended to read as follows:

463.100 1. The Board shall keep its main office at Carson City, Nevada, in conjunction with the Commission in rooms provided by the Buildings and Grounds Division of the Department of Administration.

2. The Board may, in its discretion, maintain a branch office in Las Vegas, Nevada, or at any other place in this State as the Chair of the Board deems necessary for the efficient operation of the Board. ~~[The Chair of the Board may enter into such leases or other agreements as may be necessary to establish a branch office.]~~ ***Any leases or agreements entered into pursuant to this subsection must be executed in accordance with the provisions of NRS 331.110.***

Sec. 3. NRS 480.160 is hereby amended to read as follows:

480.160 1. The Department shall keep its main office at Carson City, Nevada, in rooms provided by the Buildings and Grounds Division of the Department of Administration.

2. The Department may maintain such branch offices throughout the State as the Director deems necessary for the efficient operation of the Department and the various divisions thereof. ~~[The Director may enter into such leases or other agreements as may be necessary to establish such branch offices.]~~ ***Any leases or agreements entered into pursuant to this subsection must be executed in accordance with the provisions of NRS 331.110.***

Sec. 4. NRS 481.055 is hereby amended to read as follows:

481.055 1. The Department shall keep its main office at Carson City, Nevada, in rooms provided by the Buildings and Grounds Division of the Department of Administration.

2. The Department may maintain such branch offices throughout the State as the Director may deem necessary to the efficient operation of the Department and the various divisions thereof. ~~[The Director is authorized, on behalf of the Department, to enter into such leases or other agreements as may be necessary to the establishment of such branch offices.]~~ ***Any leases or agreements entered into pursuant to this subsection must be executed in accordance with the provisions of NRS 331.110.***

Sec. 5. This act becomes effective on July 1, 2011.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 895 to Assembly Bill No. 404 provides that before a State agency submits the inventory of leased real property to the Chief of the Buildings and Grounds Division, the agency may request the Chief of the Budget Division to deem the information in the property inventory confidential for public safety purposes. If the Budget Division deems this information

confidential, it must remain confidential, not be considered a public book or record, and not be posted on an Internet website.

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

Assembly Bill No. 486.
Bill read second time and ordered to third reading.

Assembly Bill No. 490.
Bill read second time and ordered to third reading.

Assembly Bill No. 491.
Bill read second time and ordered to third reading.

Assembly Bill No. 492.
Bill read second time and ordered to third reading.

Assembly Bill No. 493.
Bill read second time and ordered to third reading.

Assembly Bill No. 495.
Bill read second time and ordered to third reading.

Assembly Bill No. 546.
Bill read second time and ordered to third reading.

Assembly Bill No. 563.
Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that the motion whereby Assembly Bill No.574 was referred to the Committee on Government Affairs be rescinded.
Motion carried.

Senator Wiener moved that Senate Standing Rule No. 40 be suspended and that Assembly Bill No. 574 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 1:05 p.m.

SENATE IN SESSION

At 2:23 p.m.
President Krolicki presiding.
Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 212.
Bill read third time.

Roll call on Senate Bill No. 212:
YEAS—21.
NAYS—None.

Senate Bill No. 212 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 265.

Bill read third time.

Remarks by Senators Roberson and Parks.

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

SENATOR ROBERSON:

Thank you, Mr. President. In a recurring theme of this Session, we have another bill that will result in more prisoners being released from prison early. I cannot support this. I ask you not to support it.

SENATOR PARKS:

Thank you, Mr. President. This is called aggregating of sentences. A judge will inform a prisoner when the prisoner is sentenced that, if he has multiple offenses, he will have a certain number of years he must serve for each of those offenses and that he would not be eligible for parole before a certain date. What is happening now is that, on a lesser sentence, an inmate has an opportunity to go to a parole hearing when they have barely been sentenced to prison. This creates a real problem for victims, especially if it is for a heinous crime. It keeps dragging the victims back through repeated parole hearings. That runs up a lot of money. It costs the State to have the parole hearings and the idea of the aggregated sentence has the opportunity to save the State money in incarceration fees.

Roll call on Senate Bill No. 265:
YEAS—11.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Senate Bill No. 265 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Leslie, Parks and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 249.

President Krolicki appointed Senators Lee, Schneider and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 268.

President Krolicki appointed Senators Denis, Wiener and Brower as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 365.

RECEDE FROM SENATE AMENDMENTS

Senator Lee moved that the Senate do not recede from its action on Assembly Bill No. 376, 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, Manendo and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 376.

RECEDE FROM SENATE AMENDMENTS

Senator Wiener moved that the Senate do not recede from its action on Assembly Bill No. 379, 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 Breeden, Kihuen and Gustavson as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 379.

RECEDE FROM SENATE AMENDMENTS

Senator Parks moved that the Senate do not recede from its action on Assembly Bill No. 433, 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 Parks.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Parks, Denis and Rhoads as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 433.

RECEDE FROM SENATE AMENDMENTS

Senator Schneider moved that the Senate do not recede from its action on Assembly Bill No. 77, 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 Schneider.

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. 77.

RECEDE FROM SENATE AMENDMENTS

Senator Schneider moved that the Senate do not recede from its action on Assembly Bill No. 199, 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 Schneider.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Schneider, Copening and Halseth as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 199.

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 82.

The following Assembly amendment was read:

Amendment No. 647.

"SUMMARY—Makes various changes relating to governmental information systems. (BDR 19-267)"

"AN ACT relating to governmental administration; requiring the Chief of the Office of Information Security of the Department of Information Technology to investigate and resolve certain matters relating to security breaches of information systems of certain state agencies and elected officers; authorizing the Director of the Department or the Chief of the Office of Information Security to inform members of certain governmental entities of such security breaches; amending the membership and increasing certain terms of office of the Information Technology Advisory Board; revising the authority of the Department to provide services and equipment to local governmental agencies; requiring certain agencies and officers that use the equipment and information services of the Department to report certain incidents to the Office of Information Security; making various other changes relating to governmental information systems; requiring the Chief of the Purchasing Division of the Department of Administration and local governments to publish certain advertisements for bids or proposals on their respective Internet websites; ~~[authorizing the Chief to purchase and acquire services from a vendor who has entered into an agreement with the General~~

~~Services Administration;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 4 of this bill requires the Chief of the Office of Information Security of the Department of Information Technology to investigate and resolve any security breach or unauthorized acquisition of computerized data that materially compromises the security, confidentiality or integrity of an information system of a state agency or elected officer that uses the equipment or services of the Department. **Section 4** also authorizes the Director to inform the members of certain boards and commissions of such security breaches and unauthorized acquisitions.

Section 12 of this bill adds the Attorney General or his or her designee to and removes the Superintendent of Public Instruction or his or her designee from the membership of the Information Technology Advisory Board. **Section 12** also increases from one person to three persons the number of members who are appointed to the Board by the Governor as representatives of a city or county in this State and increases from 2 to 4 years the term of the members of the Board who are appointed by the Governor.

Under existing law, the Department is authorized to provide services to counties, cities and towns, and their agencies, if there are sufficient resources available. (NRS 242.141) **Section 13** of this bill authorizes the Department to provide services to those local governmental agencies if the provision of services would result in reduced costs to the State for equipment and services.

Under existing law, the Department is responsible for the information systems of state agencies and elected state officers that are required to use its services and equipment. (NRS 242.171) **Section 14** of this bill adds certain testing and monitoring of information systems to the duties of the Department.

Under existing law, all users of equipment or services of the Department are required to comply with certain regulations. (NRS 242.181) **Section 15** of this bill requires such users to report security-related noncompliance and unauthorized access to their information systems or applications of their information systems to the Office of Information Security of the Department within 24 hours after discovery.

Existing law requires the Chief of the Purchasing Division of the Department of Administration to publish advertisements for bids or proposals for commodities or services in at least one newspaper of general circulation in the State. (NRS 333.310) **Section 20** of this bill requires the Chief to publish the advertisement on the Internet website of the Purchasing Division and in a newspaper.

~~[Section 21 of this bill authorizes the Chief of the Purchasing Division to purchase and acquire services from a vendor who has entered into an agreement with the General Services Administration.]~~

Under existing law, local governments are required to publish advertisements for bids or proposals for purchasing and public works in a newspaper. (NRS 332.045, 338.1378, 338.1385, 338.143, 338.1692, 338.1723, 338.1907 and 496.090) **Sections 19 and ~~[22-28]~~ 26-28** of this bill require a local government to publish such advertisements on the Internet website of the local government, if the local government maintains an Internet website, in addition to publishing such advertisements in a newspaper.

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

Section 1. Chapter 242 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4, of this act.

Sec. 2. ***"Local governmental agency" means any branch, agency, bureau, board, commission, department or division of a county, incorporated city or town in this State.***

Sec. 3. ***"Security validation" means a process or processes used to ensure that an information system or a network associated with an information system is resistant to any known threat.***

Sec. 4. ***1. The Chief of the Office of Information Security shall investigate and resolve any breach of an information system of a state agency or elected officer that uses the equipment or services of the Department or an application of such an information system or unauthorized acquisition of computerized data that materially compromises the security, confidentiality or integrity of such an information system.***

2. The Director or Chief of the Office of Information Security, at his or her discretion, may inform members of the Technological Crime Advisory Board created by NRS 205A.040, the Nevada Commission on Homeland Security created by NRS 239C.120 and the Information Technology Advisory Board created by NRS 242.122 of any breach of an information system of a state agency or elected officer or application of such an information system or unauthorized acquisition of computerized data that materially compromises the security, confidentiality or integrity of such an information system.

Sec. 5. NRS 242.011 is hereby amended to read as follows:

242.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 242.015 to 242.068, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 6. NRS 242.055 is hereby amended to read as follows:

242.055 "Information service" means any service relating to the creation, maintenance, operation ***, security validation, testing, continuous monitoring*** or use of an information system.

Sec. 7. NRS 242.057 is hereby amended to read as follows:

242.057 "Information system" means any communications or computer equipment, computer software, procedures, personnel or technology used to

collect, process, distribute or store information **.** ~~[within the Executive Branch of State Government.]~~

Sec. 8. NRS 242.059 is hereby amended to read as follows:

242.059 "Information technology" means any information, information system or information service acquired, developed, operated, maintained or otherwise used **.** ~~[within the Executive Branch of State Government.]~~

Sec. 9. NRS 242.071 is hereby amended to read as follows:

242.071 1. The Legislature hereby determines and declares that the creation of the Department of Information Technology is necessary for the coordinated, orderly and economical processing of information in State Government, to ensure economical use of information systems and to prevent the unnecessary proliferation of equipment and personnel among the various state agencies.

2. The purposes of the Department are:

(a) To perform information services for state agencies.

(b) To provide technical advice but not administrative control of the information systems within the state agencies ~~[, county agencies and governing bodies and agencies of incorporated cities and towns.]~~ ***and, as authorized, of local governmental agencies.***

Sec. 10. NRS 242.101 is hereby amended to read as follows:

242.101 1. The Director shall:

(a) Appoint the chiefs of the ~~[divisions]~~ ***Programming Division and the Communication and Computing Division of the Department who are*** in the unclassified service of the State;

(b) ***Appoint the Chief of the Office of Information Security who is in the classified service of the State;***

(c) Administer the provisions of this chapter and other provisions of law relating to the duties of the Department; and

~~[(c)]~~ ***(d)*** Carry out other duties and exercise other powers specified by law.

2. The Director may form committees to establish standards and determine criteria for evaluation of policies relating to informational services.

Sec. 11. ~~[NRS 242.105 is hereby amended to read as follows:~~

~~242.105 1. Except as otherwise provided in subsection 3, records and portions of records that are assembled, maintained, overseen or prepared by the Department *or a local governmental agency* to mitigate, prevent or respond to acts of terrorism, *or to maintain the continuity of government and governmental services in the case of an act of terrorism,* the public disclosure of which would, in the determination of the Director, create a substantial likelihood of threatening the safety of the general public are confidential and not subject to inspection by the general public to the extent that such records and portions of records consist of or include:~~

~~(a) Information regarding the infrastructure and security of information systems, including, without limitation:~~

~~(1) Access codes, passwords and programs used to ensure the security of an information system;~~

~~(2) Access codes used to ensure the security of software applications;~~

~~(3) Procedures and processes used to ensure the security of an information system; and~~

~~(4) Plans used to reestablish security and service with respect to an information system after security has been breached or service has been interrupted.~~

~~(b) Assessments and plans that relate specifically and uniquely to the vulnerability of *such* an information system or to the measures which will be taken to respond to such vulnerability, including, without limitation, any compiled underlying data necessary to prepare such assessments and plans.~~

~~(c) The results of tests of the security of *such* an information system, insofar as those results reveal specific vulnerabilities relative to the information system.~~

~~2. The Director shall maintain or cause to be maintained a list of each record or portion of a record that the Director has determined to be confidential pursuant to subsection 1. The list described in this subsection must be prepared and maintained so as to recognize the existence of each such record or portion of a record without revealing the contents thereof.~~

~~3. At least once each biennium, the Director shall review the list described in subsection 2 and shall, with respect to each record or portion of a record that the Director has determined to be confidential pursuant to subsection 1:~~

~~(a) Determine that the record or portion of a record remains confidential in accordance with the criteria set forth in subsection 1;~~

~~(b) Determine that the record or portion of a record is no longer confidential in accordance with the criteria set forth in subsection 1; or~~

~~(c) If the Director determines that the record or portion of a record is obsolete, cause the record or portion of a record to be disposed of in the manner described in NRS 239.073 to 239.125, inclusive.~~

~~4. On or before February 15 of each year, the Director shall:~~

~~(a) Prepare a report setting forth a detailed description of each record or portion of a record determined to be confidential pursuant to this section, if any, accompanied by an explanation of why each such record or portion of a record was determined to be confidential; and~~

~~(b) Submit a copy of the report to the Director of the Legislative Counsel Bureau for transmittal to:~~

~~(1) If the Legislature is in session, the standing committees of the Legislature which have jurisdiction of the subject matter; or~~

~~(2) If the Legislature is not in session, the Legislative Commission.~~

~~5. As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 239C.030.]~~ **(Deleted by amendment.)**

Sec. 12. NRS 242.122 is hereby amended to read as follows:

242.122 1. There is hereby created an Information Technology Advisory Board. The Board consists of:

(a) One member appointed by the Majority Floor Leader of the Senate from the membership of the Senate Standing Committee on Finance **.** ~~[during the immediately preceding session of the Legislature.]~~

(b) One member appointed by the Speaker of the Assembly from the membership of the Assembly Standing Committee on Ways and Means **.** ~~[during the immediately preceding session of the Legislature.]~~

(c) Two representatives of using agencies which are major users of the services of the Department. The Governor shall appoint the two representatives. Each such representative serves for a term of ~~[2]~~ ***4*** years. For the purposes of this paragraph, an agency is a "major user" if it is among the top five users of the services of the Department, based on the amount of money paid by each agency for the services of the Department during the immediately preceding biennium.

(d) The Director of the Department of Administration or his or her designee.

(e) ~~[The Superintendent of Public Instruction of the Department of Education or his or her designee.~~

~~(f) Three]~~ ***The Attorney General or his or her designee.***

(f) Five persons appointed by the Governor ~~[in July of each odd-numbered year]~~ as follows:

(1) ~~[One person]~~ ***Three persons*** who ~~[represents]~~ ***represent*** a city or county in this State ~~[;]~~ ***, at least one of whom is engaged in the information technology or information security;*** and

(2) Two persons who represent the information technology industry but who:

(I) Are not employed by this State;

(II) Do not hold any elected or appointed office in State Government;

(III) Do not have an existing contract or other agreement to provide information services, systems or technology to an agency of this State; and

(IV) Are independent of and have no direct or indirect pecuniary interest in a corporation, association, partnership or other business organization which provides information services, systems or technology to an agency of this State.

2. Each person appointed pursuant to paragraph (f) of subsection 1 serves for a term of ~~[2]~~ ***4*** years. No person so appointed may serve more than 2 consecutive terms.

3. At the first regular meeting of each calendar year, the members of the Board shall elect a Chair by majority vote.

Sec. 13. NRS 242.141 is hereby amended to read as follows:

242.141 To facilitate the economical processing of data throughout the State Government, the Department may provide service for agencies not under the control of the Governor, upon the request of any such agency. ~~[If~~

~~there are sufficient resources available to the Department, it~~] ***The Department*** may provide services ***, including, without limitation, purchasing services,*** to [~~counties, cities and towns and to their agencies.~~] ***a local governmental agency upon request, if provision of such services will result in reduced costs to the State for equipment and services.***

Sec. 14. NRS 242.171 is hereby amended to read as follows:

242.171 1. The Department is responsible for:

(a) The applications of information systems;

(b) Designing and placing those ***information*** systems in operation;

(c) Any application of an information system which it furnishes to state agencies and officers after negotiation; and

(d) The [~~writing,~~] ***security validation,*** testing ***, including, without limitation, penetration testing,*** and [~~performance of programs,~~] ***continuous monitoring of information systems,***

➥ for [~~the state~~] ***using*** agencies and [~~elected state officers which are required to use its services.~~] ***for state agencies and officers which use the equipment or services of the Department pursuant to subsection 2 of NRS 242.131.***

2. The Director shall review and approve or disapprove, pursuant to standards for justifying cost, any application of an information system having an estimated developmental cost of $50,000 or more. No using agency may commence development work on any such applications until approval and authorization have been obtained from the Director.

3. As used in this section, "penetration testing" means a method of evaluating the security of an information system or application of an information system by simulating unauthorized access to the information system or application.

Sec. 15. NRS 242.181 is hereby amended to read as follows:

242.181 1. Any state agency or elected state officer which uses the equipment or services of the Department shall adhere to the regulations, standards, practices, policies and conventions of the Department.

2. ***Each state agency or elected state officer described in subsection 1 shall report any suspected incident of:***

(a) Unauthorized access to an information system or application of an information system of the Department used by the state agency or elected state officer; and

(b) Noncompliance with the regulations, standards, practices, policies and conventions of the Department that is identified by the Department as security-related,

➥ ***to the Office of Information Security of the Department within 24 hours after discovery of the suspected incident. If the Office determines that an incident of unauthorized access or noncompliance occurred, the Office shall immediately report the incident to the Director. The Director shall assist in the investigation and resolution of any such incident.***

3. The Department shall provide services to each ***state*** agency ***and elected state officer described in subsection 1*** uniformly with respect to

degree of service, priority of service, availability of service and cost of service.

Sec. 16. NRS 242.191 is hereby amended to read as follows:

242.191 1. Except as otherwise provided in subsection 3, the amount receivable from ~~[an]~~ ***a state agency or officer or local governmental*** agency ~~[availing itself of]~~ ***which uses*** the services of the Department must be determined by the Director in each case and include:

(a) The annual expense, including depreciation, of operating and maintaining the Communication and Computing Division, distributed among the agencies in proportion to the services performed for each agency.

(b) A service charge in an amount determined by distributing the monthly installment for the construction costs of the computer facility among the agencies in proportion to the services performed for each agency.

2. The Director shall prepare and submit monthly to the ***state agencies and officers and local governmental*** agencies for which services of the Department have been performed an itemized statement of the amount receivable from each ***state agency or officer or local governmental*** agency.

3. The Director may authorize, if in his or her judgment the circumstances warrant, a fixed cost billing, including a factor for depreciation, for services rendered to ~~[an]~~ ***a state agency or officer or local governmental*** agency.

Sec. 17. NRS 242.231 is hereby amended to read as follows:

242.231 Upon the receipt of a statement submitted pursuant to subsection 2 of NRS 242.191, each ***state*** agency ***or officer*** shall authorize the State Controller by transfer or warrant to draw money from the agency's account in the amount of the statement for transfer to or placement in the Fund for Information Services.

Sec. 18. NRS 205.4765 is hereby amended to read as follows:

205.4765 1. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization:

(a) Modifies;

(b) Damages;

(c) Destroys;

(d) Discloses;

(e) Uses;

(f) Transfers;

(g) Conceals;

(h) Takes;

(i) Retains possession of;

(j) Copies;

(k) Obtains or attempts to obtain access to, permits access to or causes to be accessed; or

(l) Enters,

➥ data, a program or any supporting documents which exist inside or outside a computer, system or network is guilty of a misdemeanor.

2. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization:

(a) Modifies;

(b) Destroys;

(c) Uses;

(d) Takes;

(e) Damages;

(f) Transfers;

(g) Conceals;

(h) Copies;

(i) Retains possession of; or

(j) Obtains or attempts to obtain access to, permits access to or causes to be accessed,

➥ equipment or supplies that are used or intended to be used in a computer, system or network is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization:

(a) Destroys;

(b) Damages;

(c) Takes;

(d) Alters;

(e) Transfers;

(f) Discloses;

(g) Conceals;

(h) Copies;

(i) Uses;

(j) Retains possession of; or

(k) Obtains or attempts to obtain access to, permits access to or causes to be accessed,

➥ a computer, system or network is guilty of a misdemeanor.

4. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization:

(a) Obtains and discloses;

(b) Publishes;

(c) Transfers; or

(d) Uses,

➥ a device used to access a computer, network or data is guilty of a misdemeanor.

5. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization introduces, causes to be introduced or attempts to introduce a computer contaminant into a computer, system or network is guilty of a misdemeanor.

6. If the violation of any provision of this section:

(a) Was committed to devise or execute a scheme to defraud or illegally obtain property;

(b) Caused response costs, loss, injury or other damage in excess of $500; or

(c) Caused an interruption or impairment of a public service, including, without limitation, a governmental operation, a system of public communication or transportation or a supply of water, gas or electricity,

➥ the person is guilty of a category C felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than $100,000. In addition to any other penalty, the court shall order the person to pay restitution.

7. The provisions of this section do not apply to a person performing any testing, including, without limitation, penetration testing, of an information system of an agency that uses the equipment or services of the Department of Information Technology that is authorized by the Director of the Department of Information Technology or the chief of the Office of Information Security of the Department. As used in this subsection:

(a) "Information system" has the meaning ascribed to it in NRS 242.057.

(b) "Penetration testing" has the meaning ascribed to it in NRS 242.171.

Sec. 19. NRS 332.045 is hereby amended to read as follows:

332.045 1. The advertisement required by paragraph (a) of subsection 1 of NRS 332.039 must ~~[be published at least once and not less than 7 days before the opening of bids. The advertisement must]~~ be by notice to bid and must be published ~~[in]~~ ***:***

(a) In a newspaper qualified pursuant to chapter 238 of NRS that has a general circulation within the county wherein the local government, or a major portion thereof, is situated ~~[.]~~ ***at least once and not less than 7 days before the opening of bids; and***

(b) On the Internet website of the local government, if the local government maintains an Internet website, every day for not less than 7 days before the opening of bids.

2. The notice must state:

(a) The nature, character or object of the contract.

(b) If plans and specifications are to constitute part of the contract, where the plans and specifications may be seen.

(c) The time and place where bids will be received and opened.

(d) Such other matters as may properly pertain to giving notice to bid.

Sec. 20. NRS 333.310 is hereby amended to read as follows:

333.310 1. An advertisement must contain a general description of the classes of commodities or services for which a bid or proposal is wanted and must state:

(a) The name and location of the department, agency, local government, district or institution for which the purchase is to be made.

(b) Where and how specifications and quotation forms may be obtained.

(c) If the advertisement is for bids, whether the Chief is authorized by the using agency to be supplied to consider a bid for an article that is an alternative to the article listed in the original request for bids if:

(1) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(2) The purchase of the alternative article results in a lower price; and

(3) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(d) Notice of the preference set forth in NRS 333.3366.

(e) The date and time not later than which responses must be received by the Purchasing Division.

(f) The date and time when responses will be opened.

➥ The Chief or a designated agent of the Chief shall approve the copy for the advertisement.

2. Each advertisement must be published ~~[in]~~ ***:***

(a) In at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation ~~[.]~~ ***; and***

(b) On the Internet website of the Purchasing Division.

Sec. 21. ~~[NRS 333.480 is hereby amended to read as follows:~~

~~333.480 The Chief may purchase or acquire on behalf of the State of Nevada, and all officers, departments, institutions, boards, commissions, schools and other agencies in the Executive Department of the State Government, volunteer fire departments, local governments as defined in NRS 354.474, conservation districts or irrigation districts of the State of Nevada, any supplies, *services,* materials or equipment of any kind required or deemed advisable for the state officers, departments, institutions, boards, commissions, schools, volunteer fire departments and other agencies or local governments as defined in NRS 354.474, conservation districts or irrigation districts that may be available pursuant to an agreement with a vendor who has entered into an agreement with the General Services Administration or another governmental agency dealing in supplies, *services,* materials, equipment or donable surplus material if:~~

~~1. The prices for the supplies, *services,* materials or equipment negotiated in the agreement that the Chief enters into with the vendor are substantially similar to the prices for those supplies, *services,* materials or equipment that the vendor had negotiated with the General Services Administration or other governmental agency; and~~

~~2. The Chief determines that such an agreement would be in the best interests of the State.~~**]** **(Deleted by amendment.)**

Sec. 22. ~~[NRS 338.1378 is hereby amended to read as follows:~~

~~338.1378 1. Before a local government accepts applications pursuant to NRS 338.1379, the local government must :~~ **[**~~, in accordance with subsection 2, advertise in a newspaper that is:~~**]**

~~(a) *Publish an advertisement at least once and not less than 21 days before applications are to be submitted to the local government in a newspaper that is:*~~

~~*(1)* Qualified pursuant to the provisions of chapter 238 of NRS; and~~

~~[(b)]~~ ~~*(2)* Published in a county in which the contracts for the potential public works will be performed or, if no qualified newspaper is published in that county, published in a qualified newspaper that is published in the State of Nevada and which has a general circulation in the county in which the contracts for the potential public works will be performed.~~

~~*(b) Post on the Internet website of the local government, if the local government maintains an Internet website, an advertisement every day for not less than 21 days before applications are to be submitted to the local government.*~~

~~2. An advertisement required pursuant to subsection 1 [:~~

~~(a) Must be published at least once not less than 21 days before applications are to be submitted to the local government; and~~

~~(b) Must]~~ ~~*must* include:~~

~~[(1)]~~ ~~*(a)* A description of the potential public works for which applications to qualify as a bidder are being accepted;~~

~~[(2)]~~ ~~*(b)* The time and place at which applications are to be submitted to the local government;~~

~~[(3)]~~ ~~*(c)* The place at which applications may be obtained; and~~

~~[(4)]~~ ~~*(d)* Any other information that the local government deems necessary.]~~ **(Deleted by amendment.)**

Sec. 23. ~~[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 *on the Internet website of the county where the public work will be performed, if the county maintains an Internet website, and* 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, inclusive.~~**] (Deleted by amendment.)**

Sec. 24. ~~[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 *on the Internet website of the local government, if the local government maintains an Internet website, and* 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~~

~~(c) 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, inclusive.~~] **(Deleted by amendment.)**

Sec. 25. ~~[~~NRS 338.1692 is hereby amended to read as follows:

~~338.1692 1. A public body shall advertise for statements of qualifications for a construction manager at risk *on the Internet website of the public body, if the public body maintains an Internet website, and* 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 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 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;~~

~~(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.~~

~~3. A statement of qualifications must include, without limitation:~~

~~(a) An explanation of the experience that the applicant has with projects of similar size and scope;~~

~~(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) Evidence that the applicant has obtained or has the ability to obtain such insurance as may be required by law; and~~

~~(f) 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; and~~

~~(2) Disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333.~~] **(Deleted by amendment.)**

Sec. 26. NRS 338.1723 is hereby amended to read as follows:

338.1723 1. A public body shall advertise for preliminary proposals for the design and construction of a public work by a design-build team**.** ~~*[on the Internet website of the public body, if the public body maintains an Internet website, and* in~~] ***The advertisement must be published:***

(a) In a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed ~~[.]~~ ***at least once and not less than 7 days before the opening of bids; and***

(b) On the Internet website of the public body, if the public body maintains an Internet website, every day for not less than 7 days before the opening of bids.

➥ 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 preliminary proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the public work to be designed and constructed;

(b) An estimate of the cost to design and construct the public work;

(c) The dates on which it is anticipated that the separate phases of the design and construction of the public work will begin and end;

(d) The date by which preliminary proposals must be submitted to the public body;

(e) If the proposal is for a public work of the State, a statement setting forth that the prime contractor must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a preliminary proposal;

(f) A description of 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 public work that the public body determines to be necessary;

(g) A list of the requirements set forth in NRS 338.1721;

(h) A list of the factors and relative weight assigned to each factor that the public body will use to evaluate design-build teams who submit a proposal for the public work;

(i) Notice that a design-build team desiring to submit a proposal for the public work must include with its proposal the information used by the public body to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of NRS 338.1725 and a description of that information; and

(j) A statement as to whether a design-build team that is selected as a finalist pursuant to NRS 338.1725 but is not awarded the design-build contract pursuant to NRS 338.1727 will be partially reimbursed for the cost of preparing a final proposal and, if so, an estimate of the amount of the partial reimbursement.

Sec. 27. NRS 338.1907 is hereby amended to read as follows:

338.1907 1. A governing body may designate one or more energy retrofit coordinators for the buildings occupied by the local government.

2. If such a coordinator is designated, upon request by or consultation with an officer or employee of the local government who is responsible for the budget of a department, board, commission or other entity of the local government, the coordinator may request the approval of the governing body to advertise a request for proposals to retrofit a building, or any portion thereof, that is occupied by the department, board, commission or other entity, to make the use of energy in the building, or portion thereof, more efficient.

3. Upon approval of the governing body, the coordinator shall prepare a request for proposals for the retrofitting of one or more buildings, or any portion thereof, which includes:

(a) The name and location of the coordinator;

(b) A brief description of the requirements for the initial audit of the use of energy and the retrofitting;

(c) Where and how specifications of the requirements for the initial audit of the use of energy and the retrofitting may be obtained;

(d) The date and time not later than which proposals must be received by the coordinator; and

(e) The date and time when responses will be opened.

4. The request for proposals must be published ~~*[on]*~~ **:**

(a) On the Internet website of the governing body, if the governing body maintains an Internet website, every day for not less than 7 days before the opening of bids; and ~~[in]~~

(b) In a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed ~~[.]~~ ***at least once and not less than 7 days before the opening of bids.***

➥ 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 where the public work will be performed.

5. After receiving the proposals but before making a decision on the proposals, the coordinator shall consider:

(a) The best interests of the local government;

(b) The experience and financial stability of the persons submitting the proposals;

(c) Whether the proposals conform with the terms of the request for proposals;

(d) The prices of the proposals; and

(e) Any other factor disclosed in the request for proposals.

6. The coordinator shall determine the relative weight of each factor before a request for proposals is advertised. The weight of each factor must not be disclosed before the date proposals are required to be submitted to the coordinator.

7. After reviewing the proposals, if the coordinator determines that the dollar value of the annual energy savings resulting from the retrofit will meet or exceed the total annual contract payments to be made by the local government, including any financing charges to be incurred by the local government over the life of the contract, the coordinator shall select the best proposal and request the approval of the governing body to award the contract. The request for approval must include the proposed method of financing the audit and retrofit, which may include an installment contract, a shared savings contract or any other contract for a reasonable financing arrangement. Such a contract may commit the local government to make payments beyond the fiscal year in which the contract is executed or beyond the terms of office of the governing body, or both.

8. Before approving a retrofit pursuant to this section, the governing body shall evaluate any projects that would utilize shared savings as a method of payment or any method of financing that would commit the local government to make payments beyond the fiscal year in which the contract is executed or beyond the terms of office of the governing body to ensure that:

(a) The dollar value of the annual energy savings resulting from the retrofit will meet or exceed the total annual contract payments to be made by the local government related to the retrofit, including any financing charges to be incurred by the local government over the life of the contract; and

(b) The local government is likely to continue to occupy the building for the entire period required to recoup the cost of the retrofit in energy savings.

9. Upon approval of the governing body, the coordinator shall execute the contract and notify each officer or employee who is responsible for the budget of a department, board, commission or other entity which occupies a portion of a building that will be retrofitted of the amount of money it will be required to pay annually for its portion of the retrofit.

10. A change order to a contract executed pursuant to this section may not be approved by the local government if the cost of the change order would cause the dollar value of the annual energy savings resulting from the retrofit to be less than the total annual contract payments to be made by the local government, including financing charges to be incurred by the local government over the life of the contract, unless approval of the change order is more economically feasible than termination of the retrofit.

11. NRS 338.1385 and 338.143 do not apply to a project for which a request for proposals is advertised and the contract is awarded pursuant to the provisions of this section.

Sec. 28. NRS 496.090 is hereby amended to read as follows:

496.090 1. In operating an airport or air navigation facility or any other facilities appertaining to the airport owned, leased or controlled by a municipality, the municipality may, except as limited by the terms and conditions of any grant, loan or agreement pursuant to NRS 496.180, enter into:

(a) Contracts, leases and other arrangements with any persons:

(1) Granting the privilege of using or improving the airport or air navigation facility, or any portion or facility thereof, or space therein, for commercial purposes. The municipality may, if it determines that an improvement benefits the municipality, reimburse the person granted the privilege for all or any portion of the cost of making the improvement.

(2) Conferring the privilege of supplying goods, commodities, things, services or facilities at the airport or air navigation facility or other facilities.

(3) Making available services to be furnished by the municipality or its agents or by other persons at the airport or air navigation facility or other facilities.

(4) Providing for the maintenance of the airport or air navigation facility, or any portion or facility thereof, or space therein.

(5) Allowing residential occupancy of property acquired by the municipality.

(b) Contracts for the sale of revenue bonds or other securities whose issuance is authorized by the Local Government Securities Law or NRS 496.150 or 496.155, for delivery within 10 years after the date of the contract.

2. In each case the municipality may establish the terms and conditions and fix the charges, rentals or fees for the privileges or services, which must be reasonable and uniform for the same class of privilege or service and must

be established with due regard to the property and improvements used and the expenses of operation to the municipality.

3. Except as otherwise provided in this subsection, and as an alternative to the procedure provided in subsection 2 of NRS 496.080, to the extent of its applicability, the governing body of any municipality may authorize it to enter into any such contracts, leases and other arrangements with any persons, as provided in this section, for a period not exceeding 50 years, upon such terms and conditions as the governing body deems proper. The provisions of this subsection must not be used to circumvent the requirement set forth in subsection 2 of NRS 496.080 that the disposal of real property be made by public auction.

4. Before entering into any such contract, lease or other arrangements, the municipality shall publish notice of its intention in general terms ***on the Internet website of the municipality, if the municipality maintains an Internet website, for a period of not less than 10 consecutive days, and*** in a newspaper of general circulation within the municipality at least once a week for 21 days or three times during a period of 10 days. If there is not a newspaper of general circulation within the municipality, the municipality shall post a notice of its intention in a public place at least once a week for 30 days. The notice must specify that a regular meeting of the governing body is to be held, at which meeting any interested person may appear. No such contract, lease or other arrangement may be entered into by the municipality until after the notice has been given and a meeting held as provided in this subsection.

5. Any member of a municipality's governing body may vote on any such contract, lease or other arrangement notwithstanding the fact that the term of the contract, lease or other arrangement may extend beyond the member's term of office.

Sec. 29. Notwithstanding the provisions of NRS 242.122, as amended by section 12 of this act, the existing members of the Information Technology Advisory Board who are appointed to 2-year terms by the Governor pursuant to NRS 242.122 may continue to serve as a member of the Board until the expiration of their current terms and until the Governor appoints successors to 4-year terms pursuant to NRS 242.122, as amended by section 12 of this act. If a position on the Board becomes vacant on or after July 1, 2011, the vacancy must be filled in the manner provided in NRS 242.122, as amended by section 12 of this act.

Sec. 30. This act becomes effective on July 1, 2011.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 82.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 99.

The following Assembly amendment was read:

Amendment No. 723.

"SUMMARY—Makes various changes concerning consumer protection. (BDR 52-127)"

"AN ACT relating to consumer protection; ~~[requiring certain grant writing services to register with the Director of the Department of Business and Industry; requiring the Director to publish a list of registered grant writing services on an Internet website maintained by the Director; requiring a grant writing service to provide certain statements to a buyer before the execution of a contract for grant writing services;]~~ prescribing certain mandatory terms of a contract for grant writing services; **providing certain exemptions;** providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Sections 2-23]~~ **Section 16** of this bill ~~[create provisions governing]~~ **sets forth requirements applicable to contracts for** grant writing services in this State. ~~[and vest the Director of the Department of Business and Industry with authority to enforce these provisions.]~~ **Section 7 of this bill** defines "grant writing service." **Section 22 of this bill provides that a violation of the provisions of this bill constitutes a deceptive trade practice.** **Section 9** ~~[requires certain grant writing services to register with the Director, but]~~ **of this bill** exempts from the provisions of ~~[sections 2-23]~~ **this bill the providing of certain education and training relating to grants and** certain grant writing services that offer services relating to affordable housing and community development projects. ~~[Section 9 also requires the Director to publish a list of registered grant writing services on an Internet website maintained by the Director.~~

~~Section 13 prohibits a grant writing service from engaging in certain activities. Section 16 establishes certain requirements for a contract for grant writing services. Section 22 authorizes the Director to take certain actions if a person violates the provisions of sections 2-23 and provides that such a violation is a deceptive trade practice. Section 23 requires the Director to adopt regulations to carry out the provisions of sections 2-23.]~~

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 23, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Buyer" means a natural person who is solicited to purchase or who purchases the services of a grant writing service.***

Sec. 3.5. ~~[*"Director" means the Director of the Department of Business and Industry.*]~~ **(Deleted by amendment.)**

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. ***"Grant" means any money given by a governmental entity or any other person or organization to finance a specific or general purpose.***

Sec. 7. ***"Grant writing service" means a person who, with respect to obtaining any grant or other payment, loan or money, advertises, sells, provides or performs, or represents that he or she can or will sell, provide or perform, any of the following services in return for the payment of money or other valuable consideration:***

1. Writing an application for a grant for a buyer.

2. Obtaining a grant for a buyer.

3. Providing advice or assistance to a buyer in obtaining a grant.

Sec. 8. (Deleted by amendment.)

Sec. 9. ~~*[1. Except as otherwise provided in subsection 3, each grant writing service regulated by the provisions of sections 2 to 23, inclusive, of this act shall apply for registration on the form prescribed by the Director. Upon approval of an application submitted pursuant to this subsection, the Director shall issue a certificate of registration to the grant writing service.*~~

~~*2. The Director shall publish on an Internet website maintained by the Director a complete list of all grant writing services which are registered pursuant to this section.*~~

~~*3.]*~~ ***The provisions of sections 2 to 23, inclusive, of this act do not apply to*** ~~*[a]*~~ **:**

1. A grant writing service which provides services relating to an affordable housing and community development project which is financed, in whole or in part, by tax credits for low-income housing, private activity bonds or money provided by a private entity, government, governmental agency or political subdivision of a government, including, without limitation, any money provided pursuant to 12 U.S.C. § 1701q, 26 U.S.C. § 42, 42 U.S.C. § 8013 or 42 U.S.C. §§ 12701 et seq.

2. The providing of education and training regarding procedures for writing, obtaining or managing grants.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. ~~*[A grant writing service shall not:*~~

~~*1. Charge or receive any money or other valuable consideration solely for referral of a buyer to a governmental entity or other person or organization which provides grants.*~~

~~*2. Make a false or misleading representation in the offer or sale of the services of the grant writing service.*~~

~~*3. Hire or obtain the services of a seller, as that term is defined in NRS 599B.010, who does not comply with the provisions of chapter 599B of NRS.*~~

~~*4. Advertise his or her services or conduct business in this State unless the grant writing service is registered pursuant to section 9 of this act.*~~

~~*5. Execute a contract with a buyer or receive any money or other valuable consideration from a buyer before the grant writing service provides to the buyer:*~~

~~*(a) A written statement which must be printed in at least 10-point bold type and which must include, without limitation:*~~

~~*(1) A detailed description of the services to be performed by the grant writing service for the buyer and the total amount the buyer is obligated to pay for those services;*~~

~~*(2) The physical address of the grant writing service and the non-toll free telephone number of the grant writing service;*~~

~~*(3) A statement that the grant writing service is registered pursuant to section 9 of this act; and*~~

~~*(4)*~~

~~*Any other information required by the Director; and*~~

~~*(b) A copy of the certificate of registration issued to the grant writing service pursuant to section 9 of this act.]*~~ **(Deleted by amendment.)**

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. ***A contract between a buyer and a grant writing service for the purchase of the services of the grant writing service:***

1. Must be in writing.

2. Must be signed by the buyer ~~*[.]*~~ ***or, if the transaction is conducted electronically, otherwise acknowledged by the buyer.***

3. Must be dated.

4. Must clearly indicate above the signature or acknowledgment line that the buyer may cancel the contract within 5 days after execution of the contract by giving written notice to the grant writing service of his or her intent to cancel the contract. If the notice is mailed, the notice must be postmarked not later than 5 days after the execution of the contract.

5. Must include a detailed description of the services to be performed by the grant writing service for the buyer and the total amount the buyer is obligated to pay for those services.

6. Must include a statement in at least 12-point bold type informing the buyer of his or her right to file a complaint concerning the grant writing service with the Bureau of Consumer Protection in the Office of the Attorney General, including the physical address and telephone number for the Bureau.

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. ~~*[1. In addition to any other procedures or remedies for any violation or conduct provided for in any other law, if the Director determines*~~

~~*that a person has violated any provision of sections 2 to 23, inclusive, of this act, the Director may:*~~

~~*(a) Issue an order to the person to cease and desist from engaging in the practice or activity constituting the violation;*~~

~~*(b) Order the person to pay the costs of any investigation of the violation incurred by the Director;*~~

~~*(c) Order the person to provide restitution for any money or property improperly received or obtained by the person as a result of the violation; and*~~

~~*(d) Impose a civil penalty in an amount not to exceed $10,000 for each violation.*~~

~~*2.*~~ ***Any violation of sections 2 to 23, inclusive, of this act constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.***

Sec. 23. ~~[*The Director shall adopt such regulations as are necessary to carry out the provisions of sections 2 to 23, inclusive, of this act.*]~~ **(Deleted by amendment.)**

Sec. 24. ~~[~~NRS 599B.010 is hereby amended to read as follows:

599B.010 As used in this chapter, unless the context otherwise requires:

1. "Chance promotion" means any plan in which premiums are distributed by random or chance selection.

2. "Commissioner" means the Commissioner of Consumer Affairs.

3. "Consumer" means a person who is solicited by a seller or salesperson.

4. "Division" means the Consumer Affairs Division of the Department of Business and Industry.

5. "Donation" means a promise, grant or pledge of money, credit, property, financial assistance or other thing of value given in response to a solicitation by telephone, including, but not limited to, a payment or promise to pay in consideration for a performance, event or sale of goods or services. The term does not include volunteer services, government grants or contracts or a payment by members of any organization of membership fees, dues, fines or assessments or for services rendered by the organization to those persons, if:

(a) The fees, dues, fines, assessments or services confer a bona fide right, privilege, professional standing, honor or other direct benefit upon the member; and

(b) Membership in the organization is not conferred solely in consideration for making a donation in response to a solicitation.

6. "Goods or services" means any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value.

7. "Premium" includes any prize, bonus, award, gift or any other similar inducement or incentive to purchase.

8. "Recovery service" means a business or other practice whereby a person represents or implies that he or she will, for a fee, recover any amount

~~of money that a consumer has provided to a seller or salesperson pursuant to a solicitation governed by the provisions of this chapter.~~

~~9. "Salesperson" means any person:~~

~~(a) Employed or authorized by a seller to sell, or to attempt to sell, goods or services by telephone;~~

~~(b) Retained by a seller to provide consulting services relating to the management or operation of the seller's business; or~~

~~(c) Who communicates on behalf of a seller with a consumer:~~

~~(1) In the course of a solicitation by telephone; or~~

~~(2) For the purpose of verifying, changing or confirming an order,~~

~~➥ except that a person is not a salesperson if his or her only function is to identify a consumer by name only and he or she immediately refers the consumer to a salesperson.~~

~~10. Except as otherwise provided in subsection 11, "seller" means any person who, on his or her own behalf, causes or attempts to cause a solicitation by telephone to be made through the use of one or more salespersons or any automated dialing announcing device under any of the following circumstances:~~

~~(a) The person initiates contact by telephone with a consumer and represents or implies:~~

~~(1) That a consumer who buys one or more goods or services will receive additional goods or services, whether or not of the same type as purchased, without further cost, except for actual postage or common carrier charges;~~

~~(2) That a consumer will or has a chance or opportunity to receive a premium;~~

~~(3) That the items for sale are gold, silver or other precious metals, diamonds, rubies, sapphires or other precious stones, or any interest in oil, gas or mineral fields, wells or exploration sites or any other investment opportunity;~~

~~(4) That the product offered for sale is information or opinions relating to sporting events;~~

~~(5) *That the product offered for sale is the services of a grant writing service, as that term is defined in section 7 of this act;*~~

~~*(6)* That the product offered for sale is the services of a recovery service; or~~

~~[(6)]~~ *(7)* ~~That the consumer will receive a premium or goods or services if he or she makes a donation;~~

~~(b) The solicitation by telephone is made by the person in response to inquiries from a consumer generated by a notification or communication sent or delivered to the consumer that represents or implies:~~

~~(1) That the consumer has been in any manner specially selected to receive the notification or communication or the offer contained in the notification or communication;~~

~~(2) That the consumer will receive a premium if the recipient calls the person;~~

~~(3) That if the consumer buys one or more goods or services from the person, the consumer will also receive additional or other goods or services, whether or not the same type as purchased, without further cost or at a cost that the person represents or implies is less than the regular price of the goods or services;~~

~~(4) That the product offered for sale is the services of a recovery service; or~~

~~(5) That the consumer will receive a premium or goods or services if he or she makes a donation; or~~

~~(c) The solicitation by telephone is made by the person in response to inquiries generated by advertisements that represent or imply that the person is offering to sell any:~~

~~(1) Gold, silver or other metals, including coins, diamonds, rubies, sapphires or other stones, coal or other minerals or any interest in oil, gas or other mineral fields, wells or exploration sites, or any other investment opportunity;~~

~~(2) Information or opinions relating to sporting events; or~~

~~(3) Services of a recovery service.~~

~~11. "Seller" does not include:~~

~~(a) A person licensed pursuant to chapter 90 of NRS when soliciting offers, sales or purchases within the scope of his or her license.~~

~~(b) A person licensed pursuant to chapter 119A, 119B, 624, 645 or 696A of NRS when soliciting sales within the scope of his or her license.~~

~~(c) A person licensed as an insurance broker, agent or solicitor when soliciting sales within the scope of his or her license.~~

~~(d) Any solicitation of sales made by the publisher of a newspaper or magazine or by an agent of the publisher pursuant to a written agreement between the agent and publisher.~~

~~(e) A broadcaster soliciting sales who is licensed by any state or federal authority, if the solicitation is within the scope of the broadcaster's license.~~

~~(f) A person who solicits a donation from a consumer when:~~

~~(1) The person represents or implies that the consumer will receive a premium or goods or services with an aggregated fair market value of 2 percent of the donation or $50, whichever is less; or~~

~~(2) The consumer provides a donation of $50 or less in response to the solicitation.~~

~~(g) A charitable organization which is registered or approved to conduct a lottery pursuant to chapter 462 of NRS.~~

~~(h) A public utility or motor carrier which is regulated pursuant to chapter 704 or 706 of NRS, or by an affiliate of such a utility or motor carrier, if the solicitation is within the scope of its certificate or license.~~

~~(i) A utility which is regulated pursuant to chapter 710 of NRS, or by an affiliate of such a utility.~~

~~(j) A person soliciting the sale of books, recordings, videocassettes, software for computer systems or similar items through:~~

~~(1) An organization whose method of sales is governed by the provisions of Part 425 of Title 16 of the Code of Federal Regulations relating to the use of negative option plans by sellers in commerce;~~

~~(2) The use of continuity plans, subscription arrangements, arrangements for standing orders, supplements, and series arrangements pursuant to which the person periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received; or~~

~~(3) An arrangement pursuant to which the person ships merchandise to a consumer who has consented in advance to receive the merchandise and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received.~~

~~(k) A person who solicits sales by periodically publishing and delivering a catalog to consumers if the catalog:~~

~~(1) Contains a written description or illustration of each item offered for sale and the price of each item;~~

~~(2) Includes the business address of the person;~~

~~(3) Includes at least 24 pages of written material and illustrations;~~

~~(4) Is distributed in more than one state; and~~

~~(5) Has an annual circulation by mailing of not less than 250,000.~~

~~(l) A person soliciting without the intent to complete and who does not complete, the sales transaction by telephone but completes the sales transaction at a later face-to-face meeting between the solicitor and the consumer, if the person, after soliciting a sale by telephone, does not cause another person to collect the payment from or deliver any goods or services purchased to the consumer.~~

~~(m) Any commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer subject to regulation by an official or agency of this State or of the United States, if the solicitation is within the scope of the certificate or license held by the entity.~~

~~(n) A person holding a certificate of authority issued pursuant to chapter 452 of NRS when soliciting sales within the scope of the certificate.~~

~~(o) A person licensed pursuant to chapter 689 of NRS when soliciting sales within the scope of his or her license.~~

~~(p) A person soliciting the sale of services provided by a video service provider subject to regulation pursuant to chapter 711 of NRS.~~

~~(q) A person soliciting the sale of agricultural products, if the solicitation is not intended to and does not result in a sale of more than $100 that is to be delivered to one address. As used in this paragraph, "agricultural products" has the meaning ascribed to it in NRS 587.290.~~

~~(r) A person who has been operating, for at least 2 years, a retail business establishment under the same name as that used in connection with the solicitation of sales by telephone if, on a continuing basis:~~

~~(1) Goods are displayed and offered for sale or services are offered for sale and provided at the person's business establishment; and~~

~~(2) At least 50 percent of the person's business involves the buyer obtaining such goods or services at the person's business establishment.~~

~~(s) A person soliciting only the sale of telephone answering services to be provided by the person or his or her employer.~~

~~(t) A person soliciting a transaction regulated by the Commodity Futures Trading Commission, if:~~

~~(1) The person is registered with or temporarily licensed by the Commission to conduct that activity pursuant to the Commodity Exchange Act, 7 U.S.C. §§ 1 et seq.; and~~

~~(2) The registration or license has not expired or been suspended or revoked.~~

~~(u) A person who contracts for the maintenance or repair of goods previously purchased from the person:~~

~~(1) Making the solicitation; or~~

~~(2) On whose behalf the solicitation is made.~~

~~(v) A person to whom a license to operate an information service or a nonrestricted gaming license, which is current and valid, has been issued pursuant to chapter 463 of NRS when soliciting sales within the scope of his or her license.~~

~~(w) A person who solicits a previous customer of the business on whose behalf the call is made if the person making the call:~~

~~(1) Does not offer the customer any premium in connection with the sale;~~

~~(2) Is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and~~

~~(3) Is not regularly engaged in telephone sales.~~

~~(x) A person who solicits the sale of livestock.~~

~~(y) An issuer which has a class of securities that is listed on the New York Stock Exchange, the American Stock Exchange or the National Market System of the National Association of Securities Dealers Automated Quotation System.~~

~~(z) A subsidiary of an issuer that qualifies for exemption pursuant to paragraph (y) if at least 60 percent of the voting power of the shares of the subsidiary is owned by the issuer.~~~~]~~ **(Deleted by amendment.)**

Sec. 25. (Deleted by amendment.)

Sec. 25.5. ~~[The Director of the Department of Business and Industry shall adopt any regulations necessary to carry out the provisions of sections 2 to 23, inclusive, of this act on or before October 1, 2011.]~~ **(Deleted by amendment.)**

Sec. 26. ~~[This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.]~~ **(Deleted by amendment.)**

Senator Schneider moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 99.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 419.

The following Assembly amendment was read:

Amendment No. 710.

"SUMMARY—Establishes provisions relating to safe injection practices. (BDR 40-518)"

"AN ACT relating to public health; requiring certain persons ~~[and entities that]~~ **who** are licensed, registered or certified by the Health Division of the Department of Health and Human Services, certain district boards of health or certain boards which license, register or certify health care professionals to attest that they have knowledge of and are in compliance with certain guidelines concerning safe infection practices as a condition of the issuance or renewal of their licenses, registration or certificates; **requiring certain medical laboratories licensed by the Health Division and persons who register a radiation machine with the Health Division to provide similar attestations regarding certain employees;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This]~~ **Sections 1, 24 and 25-30 of this** bill ~~[requires]~~ **require** the Health Division of the Department of Health and Human Services, certain district boards of health and certain boards that license, register or certify health care professionals to require, as a condition of issuing or renewing a license, registration or certificate, that the applicant for issuance or renewal of the license, registration or certificate must attest to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices. **Sections 24.3 and 31 of this bill similarly require certain medical laboratories licensed by the Health Division and persons who register a radiation machine with the Health Division, as a condition of issuing or renewing a license or registration, to attest that certain employees have such knowledge of and are in compliance with such guidelines.**

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

The Health Division shall not issue or renew a license for a home for individual residential care unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. Chapter 450B of NRS is hereby amended by adding thereto a new section to read as follows:

The health authority shall not issue or renew:

1. A license to an attendant or firefighter; or

2. A certificate as an emergency medical technician,

➥ unless the applicant for issuance or renewal of the license or certificate attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 24.3. **Chapter 459 of NRS is hereby amended by adding thereto a new section to read as follows:**

The Health Division shall not issue or renew the registration of a radiation machine pursuant to regulations adopted by the State Board of Health unless the applicant for issuance or renewal of the registration attests that the radiologic technologists and nuclear medicine technologists employed by the applicant have knowledge of and are in compliance with

the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 24.7. **NRS 459.010 is hereby amended to read as follows:**

459.010 As used in NRS 459.010 to 459.290, inclusive, unless the context requires otherwise:

1. "By-product material" means:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or making use of special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore which is processed primarily for the extraction of the uranium or thorium.

2. "General license" means a license effective pursuant to regulations adopted by the State Board of Health without the filing of an application to transfer, acquire, own, possess or use quantities of, or devices or equipment for utilizing, by-product material, source material, special nuclear material or other radioactive material occurring naturally or produced artificially.

3. "Health Division" means the Health Division of the Department of Health and Human Services.

4. "Ionizing radiation" means gamma rays and X rays, alpha and beta particles, high-speed electrons, neutrons, protons and other nuclear particles, but not sound or radio waves, or visible, infrared or ultraviolet light.

5. "Person" includes any agency or political subdivision of this State, any other state or the United States, but not the Nuclear Regulatory Commission or its successor, or any federal agency licensed by the Nuclear Regulatory Commission or any successor to such a federal agency.

6. "Source material" means:

(a) Uranium, thorium or any other material which the Governor declares by order to be source material after the Nuclear Regulatory Commission or any successor thereto has determined that material to be source material.

(b) Any ore containing one or more of the materials enumerated in paragraph (a) in such concentration as the Governor declares by order to be source material after the Nuclear Regulatory Commission or any successor thereto has determined the material in the concentration to be source material.

7. "Special nuclear material" means:

(a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235 and any other material which the Governor declares by order to be special nuclear material after the Nuclear Regulatory Commission or any successor thereto has determined such material to be special nuclear material, but does not include source material.

(b) Any material artificially enriched by any of the materials enumerated in paragraph (a), but does not include source material.

8. "Specific license" means a license issued pursuant to the filing of an application to use, manufacture, produce, transfer, receive, acquire, own or possess quantities of, or devices or equipment for utilizing, by-product material, source material, special nuclear material or other radioactive material occurring naturally or produced artificially.

Sec. 25. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall not issue or renew a license to practice as a physician, physician assistant or perfusionist unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

2. In addition to the attestation provided pursuant to subsection 1, a physician shall attest that any person:

(a) Who is under the control and supervision of the physician;

(b) Who is not licensed pursuant to this chapter; and

(c) Whose duties involve injection practices,

➥ has knowledge of and is in compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 26. Chapter 632 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not issue or renew a license to practice as a professional nurse or a practical nurse unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 27. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not issue or renew a license to practice osteopathic medicine or as a physician assistant unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 28. Chapter 634A of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not issue or renew a license to practice Oriental medicine unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 29. Chapter 635 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not issue or renew a license to practice podiatry unless the applicant for issuance or renewal of the license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 30. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall not approve an application for registration or renewal of registration as a pharmacist or intern pharmacist unless the applicant for issuance or renewal of registration attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Sec. 31. Chapter 652 of NRS is hereby amended by adding thereto a new section to read as follows:

The Health Division shall not issue or renew a license to a medical laboratory whose licensed personnel have job duties that include the administration of injections unless the applicant for issuance or renewal of the license attests that the laboratory director and laboratory personnel whose job duties include the administration of injections have knowledge of and are in compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

Senator Copening moved that the Senate concur in the Assembly amendment to Senate Bill No. 419.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 191.

The following Assembly amendment was read:

Amendment No. 701.

"SUMMARY—Revises provisions governing pet **cemeteries and** crematories. (BDR 40-979)"

"AN ACT relating to ~~[pet crematories; repealing provisions which require a person who operates a crematory for pets to operate the crematory on the property of a cemetery for]~~ pets; **reducing the amount of real property required for the operation of a pet cemetery; revising provisions governing crematories for pets;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This bill repeals provisions requiring]~~ **Section 2 of this bill authorizes the governing body of a county, city or town to adopt ordinances for the maintenance and operation of a crematory for pets. Section 3 of this bill**

reduces the amount of real property required to have a pet cemetery from 5 acres to 2.5 acres. Section 4 of this bill removes the requirement that a crematory for pets must be operated by a person who ~~[operates a crematory for pets to obtain a certificate of authority from the Nevada State Funeral Board to operate a cemetery for pets and to operate the crematory on the premises of the cemetery. (NRS 452.675)]~~ **is a cemetery authority, who has a certificate of authority and who operates the crematory on the property of a pet cemetery. Instead, section 4 requires a crematory for pets which is independent of a cemetery for pets to have an area of a facility that is designated only for the cremation of pets and which complies with any applicable laws. Section 5 of the bill allows the operator of a crematory for pets to dispose of the remains of a pet which have been left with the crematory when arrangements have not been made within 7 days.**

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

Section 1. ~~[NRS 452.675 is hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 2. **NRS 452.650 is hereby amended to read as follows:**

452.650 The governing body of a county, city or town may adopt such ordinances for the maintenance and operation of cemeteries for pets ~~[,]~~ ***and crematories for pets,*** and for the interment, inurnment and entombment of pets, as it deems appropriate for the public health, safety or welfare. Such an ordinance must not conflict with the provisions of NRS 452.655 to 452.700, inclusive.

Sec. 3. **NRS 452.670 is hereby amended to read as follows:**

452.670 A person shall not operate a cemetery for pets unless:

1. The trust fund for the endowment care of the cemetery contains a principal sum of not less than that amount required pursuant to NRS 452.705.

2. The cemetery is located on not less than ~~[5]~~ ***2.5*** acres of real property which:

(a) Is dedicated for use as a cemetery for pets pursuant to NRS 452.655; and

(b) Is not subject to any liens, mortgages or other encumbrances, except those which are subordinate to the dedication of the property for use as a cemetery for pets.

Sec. 4. **NRS 452.675 is hereby amended to read as follows:**

452.675 1. A person shall not operate a crematory for pets unless the person ~~[is a cemetery authority who:~~

~~(a) Also holds a certificate of authority issued pursuant to NRS 452.340; and~~

~~(b) Operates the crematory on the property to which that certificate of authority relates.]~~ ***has a facility with an area designated only for the cremation of pets and which complies with any applicable federal or state statute or regulation or local ordinance.***

2. The provisions of this section do not apply to ~~[(a)]~~ ***:***

(a) A society:

~~[(a) Formed]~~

(1) Which was formed for the purpose of preventing cruelty to animals as described in NRS 574.010; and

~~[(b)]~~ ***(2)*** Which operates a shelter for animals.

(b) A cemetery for pets that operates a crematory for pets.

Sec. 5. **NRS 452.680 is hereby amended to read as follows:**

452.680 A cemetery authority ~~[.]~~ ***or an operator of a crematory for pets:***

1. May dispose of the remains of any pet which has been left for more than 7 days at the cemetery ~~[.]~~ ***or crematory,*** if arrangements have not been made with the cemetery authority ***or operator of the pet crematory*** for the disposition of the pet.

2. Shall post a notice, in a conspicuous place on the grounds of the cemetery ~~[.]~~ ***or in the portion of the facility of the crematory where the public is allowed*** apprising the public of the provisions of subsection 1.

~~[Sec. 2.]~~ ***Sec. 6.*** This act becomes effective upon passage and approval.

~~[~~

~~TEXT OF REPEALED SECTION~~

~~452.675 Restriction on operation of crematory.~~

~~1. A person shall not operate a crematory for pets unless the person is a cemetery authority who:~~

~~(a) Also holds a certificate of authority issued pursuant to NRS 452.340; and~~

~~(b) Operates the crematory on the property to which that certificate of authority relates.~~

~~2. The provisions of this section do not apply to a society:~~

~~(a) Formed for the purpose of preventing cruelty to animals as described in NRS 574.010; and~~

~~(b) Which operates a shelter for animals.]~~

Senator Manendo moved that the Senate concur in the Assembly amendment to Senate Bill No. 191.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 294.

The following Assembly amendment was read:

Amendment No. 815.

"SUMMARY—Establishes provisions governing medical assistants. (BDR 40-16)"

"AN ACT relating to public health; revising provisions governing persons authorized to possess and administer dangerous drugs; revising provisions regarding certain acts of physicians; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the exclusive list of persons who may possess and administer dangerous drugs in this State. (NRS 454.213) ~~[Sections 1 and 7]~~ **Section 1** of this bill ~~[authorize]~~ **authorizes** medical assistants, under the supervision of a physician or physician assistant, to possess and administer ~~[dangerous drugs]~~ **immunizations** under certain circumstances. **Section 1** also authorizes a veterinary assistant, at the direction of a supervising veterinarian, to possess and administer dangerous drugs.

Sections 4 and 10 of this bill ~~[authorize]~~ **require** the Board of Medical Examiners and the State Board of Osteopathic Medicine to adopt regulations relating to the supervision of medical assistants, including **: (1)** limitations on the possession and administration of dangerous drugs **~~[.]~~ ; (2) any certification, training and educational requirements relating to the administration of immunizations; and (3) the clinical tasks which may be performed by a medical assistant.**

Sections 6 and 12 of this bill provide that failure to supervise adequately a medical assistant is grounds for disciplinary action.

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

Section 1. NRS 454.213 is hereby amended to read as follows:

454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

1. A practitioner.

2. A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.

3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.

4. In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:

(a) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and

(b) Acting under the direction of the medical director of that agency or facility who works in this State.

5. Except as otherwise provided in subsection 6, an intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:

(a) The State Board of Health in a county whose population is less than 100,000;

(b) A county board of health in a county whose population is 100,000 or more; or

(c) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.

6. An intermediate emergency medical technician or an advanced emergency medical technician who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.

7. A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

8. A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

9. A medical student or student nurse in the course of his or her studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:

(a) In the presence of a physician or a registered nurse; or

(b) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

➥ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

10. Any person designated by the head of a correctional institution.

11. An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

12. A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

13. A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

14. A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

15. A physical therapist, but only if the drug or medicine is a topical drug which is:

(a) Used for cooling and stretching external tissue during therapeutic treatments; and

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

(2) The transmission of drugs through the skin using ultrasound.

16. In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

17. A veterinary technician ***or a veterinary assistant*** at the direction of his or her supervising veterinarian.

18. In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the "Standards ~~[of]~~ ***for*** Immunization Practices" recommended and approved by the ~~[United States Public Health Service]~~ Advisory Committee on Immunization Practices.

19. A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

20. ~~*[A]*~~ ***If the drug or medicine is an immunization, a medical assistant, in accordance with applicable regulations of the:***

(a) Board of Medical Examiners, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.

(b) State Board of Osteopathic Medicine, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. ***1. "Medical assistant" means a person who:***

(a) Performs clinical tasks under the supervision of a physician or physician assistant; and

(b) Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.

2. The term does not include a person who performs only administrative, clerical, executive or other nonclinical tasks.

Sec. 4. ***The Board ~~[may]~~ shall adopt regulations governing the supervision of a medical assistant, including, without limitation, regulations which prescribe ~~[limitations]~~ :***

1. Limitations on the possession and administration of a dangerous drug by a medical assistant.

2. Any certification, training or educational requirements for a medical assistant to administer immunizations.

3. The clinical tasks that may be performed by a medical assistant, which must not include any invasive procedure other than the administration of an immunization.

Sec. 5. NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.026, inclusive, ***and section 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 6. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he or she is not competent to perform or which are beyond the scope of his or her training.

6. Performing, without first obtaining the informed consent of the patient or the patient's family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Habitual intoxication from alcohol or dependency on controlled substances.

9. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

10. Failing to comply with the requirements of NRS 630.254.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against the licensee or applicant by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of a license to practice medicine in another jurisdiction.

12. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

13. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

14. Operation of a medical facility at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➥ This subsection applies to an owner or other principal responsible for the operation of the facility.

15. Failure to comply with the requirements of NRS 630.373.

16. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

17. Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.

Sec. 7. ~~[~~NRS 630.369 is hereby amended to read as follows:

~~630.369 1. A person, other than a physician, shall not inject a patient with any chemotherapeutic agent classified as a prescription drug unless:~~

~~(a) The person is licensed or certified to perform medical services pursuant to this title [;~~

~~(b) The]~~ ~~*and the*~~ ~~administration of the injection is within the scope of the person's license or certificate; [and~~

~~(c) The person administers the injection under the supervision of a physician.]~~ ~~*or*~~

~~*(b) The person is a medical assistant authorized to administer a dangerous drug pursuant to NRS 454.213, the chemotherapeutic agent is classified as a dangerous drug and the person administers the injection under the supervision of a physician or physician assistant.*~~

~~➥ The Board shall prescribe the requirements for supervision pursuant to this subsection.~~

~~2. As used in this section:~~

~~(a) "Dangerous drug" has the meaning ascribed to it in NRS 454.201.~~

~~(b) "Prescription drug" means:~~

~~(1) A controlled substance or dangerous drug that may be dispensed to an ultimate user only pursuant to a lawful prescription; and~~

~~(2) Any other substance or drug substituted for such a controlled substance or dangerous drug.~~] **(Deleted by amendment.)**

Sec. 8. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

Sec. 9. ***1. "Medical assistant" means a person who:***

(a) Performs clinical tasks under the supervision of an osteopathic physician or physician assistant; and

(b) Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.

2. The term does not include a person who performs only administrative, clerical, executive or other nonclinical tasks.

Sec. 10. ***The Board ~~[may]~~ shall adopt regulations governing the supervision of a medical assistant, including, without limitation, regulations which prescribe ~~[limitations]~~ :***

1. Limitations on the possession and administration of a dangerous drug by a medical assistant.

2. Any certification, training or educational requirements for a medical assistant to administer immunizations.

3. The clinical tasks that may be performed by a medical assistant, which must not include any invasive procedure other than the administration of an immunization.

Sec. 11. NRS 633.011 is hereby amended to read as follows:

633.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 633.021 to 633.131, inclusive, ***and section 9 of this act*** have the meanings ascribed to them in those sections.

Sec. 12. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

(f) Assault with intent to kill or to commit sexual assault or mayhem;

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.

4. Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a practitioner.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of NRS 633.694.

9. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➥ This subsection applies to an owner or other principal responsible for the operation of the facility.

10. Failure to comply with the provisions of subsection 2 of NRS 633.322.

11. Signing a blank prescription form.

12. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

13. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

14. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

15. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.

16. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

17. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

18. Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.

Sec. 13. (Deleted by amendment.)

Sec. 14. This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

Senator Schneider moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 294.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 30.

The following Assembly amendment was read:

Amendment No. 626.

"SUMMARY—Makes various changes relating to common-interest communities. (BDR 10-477)"

"AN ACT relating to common-interest communities; providing for the electronic transfer of money to the United States Government or federal or state agencies under certain circumstances; authorizing an association to use electronic signatures to withdraw money from the operating account of the association under certain circumstances; revising provisions relating to the requirement that the executive board of an association make certain records available for review at a designated location; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain signatures for the withdrawal of money from an account of a unit-owners' association of a common-interest community. (NRS 116.31153) **Section 1** of this bill allows the withdrawal of money, without the required signatures, from the operating account of an association to make an electronic transfer of money to the United States Government or a federal or state agency. **Section 1** also authorizes an association to use electronic signatures to withdraw money from the operating account of the association under certain circumstances.

Existing law requires the executive board of a unit-owners' association to make certain financial records available for review at the business office of the association or some other location within the county in which the common-interest community is located. Existing law also requires the board to provide, upon request, a copy of those records to a unit's owner or the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels and authorizes the board to charge a certain fee to cover the actual costs of preparing the copy. (NRS 116.31177) **Section 3** of this bill repeals that provision and instead, **section 2** of this bill requires the executive board of a unit-owners' association to make those records available for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community. **Section 2** also **: (1)** retains the requirement that the board provide, upon request, a copy of such records to a unit's owner or the Ombudsman **;** and ~~[the authority of the board to charge a fee to cover the~~

~~actual costs of preparing the copy.]~~ **(2) requires the board to provide the copy in electronic format at no charge to the unit's owner or the Ombudsman or, if the board is unable to provide the copy in electronic format, in paper format at a cost not to exceed a certain amount per page of the record.**

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

Section 1. NRS 116.31153 is hereby amended to read as follows:

116.31153 1. Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

2. Except as otherwise provided in subsection 3, money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.

3. Money in the operating account of an association may be withdrawn without the signatures required pursuant to subsection 2 to:

(a) Transfer money to the reserve account of the association at regular intervals; ~~[or]~~

(b) Make automatic payments for utilities ~~[.]~~ ***;***

(c) Make an electronic transfer of money to a state agency pursuant to NRS 353.1467; or

(d) Make an electronic transfer of money to the United States Government, or any agency thereof, pursuant to any federal law requiring transfers of money to be made by an electronic means authorized by the United States Government or the agency thereof.

4. An association may use electronic signatures to withdraw money in the operating account of the association if:

(a) The electronic transfer of money is made pursuant to a written agreement entered into between the association and the financial institution where the operating account of the association is maintained;

(b) The executive board has expressly authorized the electronic transfer of money; and

(c) The association has established internal accounting controls which comply with generally accepted accounting principles to safeguard the assets of the association.

5. As used in this section, "electronic transfer of money" has the meaning ascribed to it in NRS 353.1467.

Sec. 2. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in ~~[this]~~ subsection ~~[,]~~ ***2,*** the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the

association for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation ~~[, all]~~ ***:***

(a) The financial statement of the association;

(b) The budgets of the association required to be prepared pursuant to NRS 116.31151;

(c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152; and

(d) All contracts to which the association is a party.

2. The provisions of ~~[this subsection]~~ ***subsection 1*** do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees; and

(b) The records of the association relating to another unit's owner, including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents, except for those records described in subsection ~~[2.]~~ ***4;*** and

(c) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board.

~~[2.]~~ ***3. The executive board shall provide a copy of any of the records required to be made available pursuant to subsection 1 to a unit's owner or the Ombudsman within 14 days after receiving a written request therefor. The executive board*** ~~*[may charge a fee to cover the actual costs of preparing a copy, but]*~~ ***shall provide the copy of any such records:***

(a) In electronic format at no charge to the unit's owner or the Ombudsman; or

(b) If the executive board is unable to provide the copy in electronic format, in paper format at a cost not to exceed 25 cents per page ~~*[.]*~~ ***for the first 10 pages, and 10 cents per page thereafter.***

4. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or

construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

~~[3.]~~ ***5.*** If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If the Ombudsman is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

~~[4.]~~ ***6.*** The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

~~[5.]~~ ***7.*** The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

~~[6.]~~ ***8.*** If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

~~[7.]~~ ***9.*** If an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

~~[8.]~~ ***10.*** The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection ~~[6]~~ ***8*** or ~~[7.~~

~~9.]~~ ***9.***

11. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 3. NRS 116.31177 is hereby repealed.

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

TEXT OF REPEALED SECTION

116.31177 Maintenance and availability of certain financial records of association; provision of copies to units' owners and Ombudsman.

1. The executive board of an association shall maintain and make available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties:

(a) The financial statement of the association;

(b) The budgets of the association required to be prepared pursuant to NRS 116.31151; and

(c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152.

2. The executive board shall provide a copy of any of the records required to be maintained pursuant to subsection 1 to a unit's owner or the Ombudsman within 14 days after receiving a written request therefor. The executive board may charge a fee to cover the actual costs of preparing a copy, but not to exceed 25 cents per page.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 30.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 55.

The following Assembly amendment was read:

Amendment No. 625.

"SUMMARY—Revises provisions governing crimes against older persons. (BDR 18-204)"

"AN ACT relating to older persons; revising the crimes against an older person that are subject to an additional civil penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Attorney General to bring a civil action to recover a civil penalty against any person who is found guilty of abuse, neglect, exploitation or isolation of an older person. (NRS 228.280) This bill expands the list of crimes that are subject to an additional civil penalty to include certain crimes committed against a person who is 60 years of age or older.

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

Section 1. NRS 228.280 is hereby amended to read as follows:

228.280 1. In addition to any criminal penalty, a person who is ~~[found guilty]~~ ***convicted*** **of** ***a crime against an older person for which an additional term of imprisonment may be imposed pursuant to paragraph (h), (i) or (j) of subsection 1 of NRS 193.167 or of the*** abuse, neglect, exploitation or isolation of an older person pursuant to NRS 200.5099 or 200.50995 is liable for a civil penalty to be recovered by the Attorney General in a civil action brought in the name of the State of Nevada:

(a) For the first offense, in an amount which is not less than $5,000 and not more than $20,000.

(b) For a second or subsequent offense, in an amount which is not less than $10,000 and not more than $30,000.

2. The Attorney General shall deposit any money collected for civil penalties pursuant to subsection 1 in equal amounts to:

(a) A separate account in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 to provide compensation to older persons who are ~~[abused,]~~ ***:***

(1) Victims of a crime for which an additional term of imprisonment may be imposed pursuant to paragraph (h), (i) or (j) of subsection 1 of NRS 193.167; or

(2) Abused, neglected, exploited or isolated in violation of NRS 200.5099 and 200.50995 **.** ~~[; and]~~

(b) The Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons created pursuant to NRS 228.285.

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

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 55.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 150.

The following Assembly amendment was read:

Amendment No. 734.

"SUMMARY—Revises certain provisions governing liens of owners of facilities for storage. (BDR 9-907)"

"AN ACT relating to liens; revising certain provisions governing liens of owners of facilities for storage; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law generally provides that if an occupant of a storage space at a self-storage facility defaults on the payment of rent or other charges that are due to the owner of the facility pursuant to a rental agreement, the owner has a lien on the occupant's personal property contained in the storage space and is entitled to certain remedies until the lien is satisfied. (NRS 108.4753, 108.4763) In addition to being able to deny the occupant access to the storage space and remove the occupant's personal property from the storage space, an owner may also sell the occupant's personal property to satisfy the lien. (NRS 108.4763) **Section 16** of this bill further authorizes an owner to dispose of certain personal property. **Sections 13, 16** ~~[, 17]~~ **and 19** of this bill revise various provisions relating to an owner's lien on an occupant's personal property as well as the sale to satisfy such a lien.

Existing law also authorizes an occupant to prevent the sale of his or her personal property to satisfy the lien by executing a declaration ~~[of]~~ **in** opposition to the sale and returning the declaration to the owner. Upon receipt of the declaration ~~[of]~~ **in** opposition to the sale, the owner may commence an action in court to enforce the lien. (NRS 108.4765, 108.478) ~~[Section 22 of this bill repeals these provisions.]~~ **Section 16.5 of this bill revises the information that a declaration in opposition to the sale must contain. Section 18.5 of this bill removes the provision which authorizes an owner to commence an action in court to enforce the lien upon receipt of a declaration in opposition to the sale. Instead, the occupant is required to commence an action not later than 21 days after the owner receives the declaration in opposition to the sale or the owner may sell the property. If an action is commenced, the owner is prohibited from selling the property unless the court enters judgment in favor of the owner.**

Sections 15 and 16 provide that certain notices relating to an occupant's right to use a storage space and a sale to satisfy an owner's lien on an occupant's personal property must be sent by verified mail and, if available, electronic mail.

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

Section 1. Chapter 108 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***"Electronic mail" means an electronic message, executable program or computer file which contains an image of a message that is transmitted between two or more computers or electronic terminals, or***

within or between computer networks and from which ~~[an electronic]~~ a confirmation of receipt is received.

Sec. 3. ***"Protected property" means personal property, the sale of which or prohibition against the sale of which is regulated by state or federal law. The term includes, without limitation:***

1. Documents, film or electronic data that contain personal information, such as social security numbers, credit or debit card information, bank account information, passport information and medical or legal records relating to clients, customers, patients or others in connection with an occupant's business.

2. Pharmaceuticals other than those dispensed by a licensed pharmacy for use by an occupant.

3. Alcoholic beverages.

4. Firearms.

Sec. 4. ***"Storage space" means a space used for storing personal property, which is rented or leased to an individual occupant who has access to the space.***

Sec. 5. ***"Verified mail" means any method of mailing offered by the United States Postal Service that provides evidence of mailing.***

Sec. 6. ***If a rental agreement contains a limit on the value of property stored in the storage space of an occupant, the limit is presumed to be the maximum value of the personal property stored in the storage space.***

Sec. 7. NRS 108.473 is hereby amended to read as follows:

108.473 As used in NRS 108.473 to 108.4783, inclusive, ***and sections 2 to 6, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 108.4733 to 108.4745, inclusive, ***and sections 2 to 5, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 8. NRS 108.4733 is hereby amended to read as follows:

108.4733 "Facility" means real property divided into individual ***storage*** spaces ***.*** ~~[for storing personal property which are rented or leased to individual occupants and to which the individual occupant has access.]~~ The term does not include a garage or storage area in a private residence.

Sec. 9. NRS 108.4735 is hereby amended to read as follows:

108.4735 "Occupant" includes a person or a person's sublessee, successor or assignee who is entitled to the exclusive use of ~~[a space for]~~ ***an individual*** storage ***space*** at a facility pursuant to a rental agreement.

Sec. 10. NRS 108.4743 is hereby amended to read as follows:

108.4743 "Personal property" means any property not affixed to land and includes ~~[goods,]~~ ***, without limitation,*** merchandise, furniture ***,*** ~~[and]~~ household items ~~[.]~~ ***, motor vehicles, boats and personal watercraft.***

Sec. 11. NRS 108.4745 is hereby amended to read as follows:

108.4745 "Rental agreement" means any written agreement or lease establishing or modifying the terms, conditions or rules concerning the use and occupancy of an individual ~~[space in]~~ ***storage space at*** a facility.

Sec. 12. NRS 108.475 is hereby amended to read as follows:

108.475 1. A person shall not use a ***storage space at a*** facility for a residence. The owner of such a facility shall evict any person who uses ***a storage space at*** the facility as a residence in the manner provided for in NRS 40.760.

2. A facility shall not be deemed to be a warehouse or a public utility.

3. If an owner of a facility issues a warehouse receipt, bill of lading or other document of title for the personal property stored in ***a storage space at*** the facility, the owner and occupant are subject to the provisions of NRS 104.7101 to 104.7603, inclusive, and the provisions of NRS 108.473 to 108.4783, inclusive, ***and sections 2 to 6, inclusive, of this act*** do not apply.

Sec. 13. NRS 108.4753 is hereby amended to read as follows:

108.4753 1. The owner of a facility and the owner's heirs, assignees or successors have a ***possessory*** lien ***, from the date the rent for a storage space at the facility is due and unpaid,*** on all personal property ***, including protected property,*** located ~~[at the facility]~~ ***in the storage space*** for the rent, labor or other charges incurred by the owner pursuant to a rental agreement and for those expenses ~~[necessarily]~~ ***reasonably*** incurred by the owner to preserve, sell or otherwise dispose of the personal property.

2. Any lien created by a document of title for a motor vehicle or boat has priority over a lien attaching to that motor vehicle or boat pursuant to NRS 108.473 to 108.4783, inclusive.

Sec. 14. NRS 108.4755 is hereby amended to read as follows:

108.4755 1. Each rental agreement must be in writing and must contain:

(a) A provision printed in a size equal to at least 10-point type that states, "IT IS UNLAWFUL TO USE ~~[THIS]~~ ***A*** STORAGE ***SPACE IN THIS*** FACILITY AS A RESIDENCE."

(b) A statement that the occupant's personal property will be subject to a claim for a lien and may be sold ~~[to satisfy that lien]~~ ***or disposed of*** if the rent or other charges described in the rental agreement remain unpaid for 14 consecutive days.

(c) A provision requiring the occupant to:

(1) Disclose to the owner any items of protected property in the storage space.

(2) If the occupant is subject to mandatory licensing, registration, permitting or other professional or occupational regulation by a governmental agency, board or commission and the protected property to be stored is related to the practice of that profession or occupation by the occupant, provide written notice to that agency, board or commission stating that the occupant is storing protected property at the facility, identifying the general type of protected property being stored at the facility and providing complete contact information for the facility. The occupant shall give the owner a copy of any written notice provided to such an agency, board or commission.

(3) Provide complete contact information for a secondary contact who may be contacted by the owner if the owner is unable to contact the occupant.

2. If any provision of the rental agreement provides that an owner, lessor, operator, manager or employee of the facility, or any combination thereof, is not liable, jointly or severally, for any loss or theft of personal property stored in ***a storage space at*** the facility, the provision is unenforceable unless:

(a) The rental agreement contains a statement advising the occupant to purchase insurance for any personal property stored in ***a storage space at*** the facility and informing the occupant that such insurance is available through most insurers;

(b) The provision and the statement are:

(1) Printed in all capital letters or, if the rental agreement is printed in all capital letters, printed in all capital letters and boldface type, italic type or underlined type; and

(2) Printed in a size equal to at least 10-point type or, if the rental agreement is printed in 10-point type or larger, printed in type that is at least 2 points larger than the size of type used for other provisions of the rental agreement; and

(c) The provision is otherwise enforceable pursuant to the laws of this state.

3. NRS 108.473 to 108.4783, inclusive, ***and sections 2 to 6, inclusive, of this act*** do not apply and the lien for charges for storage does not attach unless the rental agreement contains a space for the occupant to provide the name and address of an alternative person to whom the notices under those sections may be sent. The occupant's failure to provide an alternative address does not affect the owner's remedies under those sections.

4. The parties may agree in the rental agreement to additional rights, obligations or remedies other than those provided by NRS 108.473 to 108.4783, inclusive ~~[.]~~ ***, and sections 2 to 6, inclusive, of this act.*** The rights provided in those sections are in addition to any other rights of a creditor against a debtor.

Sec. 15. NRS 108.476 is hereby amended to read as follows:

108.476 1. If any charges for rent or other items owed by the occupant remain unpaid for 14 days or more, the owner may terminate the occupant's right to use the ~~[~~individual~~]~~ ***storage*** space ~~[~~for storage~~]~~ at the facility ***, for which charges are owed,*** not less than 14 days after sending a notice by ~~[~~certified~~]~~ ***verified*** mail ~~*[or]*~~ ***and if available, electronic mail*** to the occupant at his or her last ***known*** address and to the alternative address provided by the occupant in the rental agreement. The notice must contain:

(a) An itemized statement of the amount owed by the occupant at the time of the notice and the date when the amount became due;

(b) The name, address and telephone number of the owner or the owner's agent;

(c) A statement that the occupant's right to use the ~~[space for]~~ storage ***space*** will terminate on a specific date unless the occupant pays the amount owed to the owner; and

(d) A statement that upon the termination of the occupant's right to occupy the ***storage*** space and after the date specified in the notice, an owner's lien pursuant to NRS 108.4753, will be imposed.

2. For the purposes of this section, "last known address" means the ***postal*** ~~*[or]*~~ ***and electronic mail*** address ***, if any,*** provided by the occupant in the most recent rental agreement between the owner and occupant, or the ***postal*** ~~*[or]*~~ ***and electronic mail*** address ***, if any,*** provided by the occupant in a written notice sent to the owner with a change of the occupant's address after the execution of the rental agreement.

Sec. 16. NRS 108.4763 is hereby amended to read as follows:

108.4763 1. After the notice of the lien is mailed by the owner, if the occupant fails to pay the total amount due by the date specified in the notice, the owner may:

(a) Deny the occupant access to the ***storage*** space . ~~[for storage; and]~~

(b) Enter the ***storage*** space and remove the personal property within it to a safe place.

(c) Dispose of, but may not sell, any protected property contained in the storage space in accordance with the provisions of subsection ~~*[4]*~~ ***5 if the owner has actual knowledge of such protected property. If the owner disposes of the protected property in accordance with the provisions of subsection*** ~~*[4,]*~~ ***5, the owner is not liable to the occupant or any other person who claims an interest in the protected property.***

(d) If the personal property upon which the lien is claimed is a motor vehicle, boat or personal watercraft, and rent and other charges related to such property remain unpaid or unsatisfied for 60 days, have the property towed by any tow car operator subject to the jurisdiction of the Nevada Transportation Authority. If a motor vehicle, boat or personal watercraft is towed pursuant to this paragraph, the owner is not liable for any damages to such property once the tow car operator takes possession of the motor vehicle, boat or personal watercraft.

2. The owner shall send ***to*** the occupant a notice of a sale to satisfy the lien by ~~[certified]~~ ***verified*** mail ~~[to the occupant at his or her]~~ ***at the*** last known address ***of the occupant*** and ~~[to]~~ ***at*** the alternative address provided by the occupant in the rental agreement at least 14 days before the sale. ***The owner shall also send such notice to the occupant by electronic mail at the last known electronic mail address of the occupant, if any.*** The notice must contain:

(a) A statement that the occupant may no longer use the ~~[space for]~~ storage ***space*** and no longer has access to the occupant's personal property stored therein ~~*[.]*~~ ***;***

(b) A statement that the personal property of the occupant is subject to a lien and the amount of the lien ~~*[.]*~~ ***;***

(c) A statement that the personal property will be sold ***or disposed of*** to satisfy the lien on a date specified in the notice, unless the total amount of the lien is paid ~~[,]~~ or the occupant executes and returns by ~~[~~certified~~]~~ ***verified*** mail, the declaration in opposition to the sale; and

(d) A statement of the provisions of subsection 3.

3. Proceeds of the sale over the amount of the lien and the costs of the sale must be retained by the owner and may be reclaimed by the occupant or the occupant's authorized representative at any time up to 1 year from the date of the sale.

4. The notice of the sale must also contain a blank copy of a declaration ~~[~~of~~]~~ ***in*** opposition to the sale to be executed by the occupant if the occupant wishes to do so.

5. The owner may dispose of protected property contained in the storage space by taking the following actions, in the following order of priority, until the protected property is disposed of:

(a) Contacting the occupant and returning the protected property to the occupant.

(b) Contacting the secondary contact listed by the occupant in the rental agreement and returning the protected property to the secondary contact.

(c) Contacting any appropriate state or federal authorities, including, without limitation, any appropriate governmental agency, board or commission listed by the occupant in the rental agreement pursuant to NRS 108.4755, ascertaining whether such authorities will accept the protected property and, if such authorities will accept the protected property, ensuring that the protected property is delivered to such authorities.

(d) Destroying the protected property in an appropriate manner which is authorized by law and which ensures that any confidential information contained in the protected property is completely obliterated and may not be examined or accessed by the public.

Sec. 16.5. **NRS 108.4765 is hereby amended to read as follows:**

108.4765 The occupant may prevent a sale of the personal property to satisfy the lien if the occupant executes a declaration ~~[~~of~~]~~ ***in*** opposition to the sale under penalty of perjury and returns the declaration to the owner by ~~[~~certified~~]~~ ***verified*** mail. The declaration must contain the following:

1. The name, address and signature of the occupant;

2. The location of the personal property which is to be sold to satisfy a lien;

3. The date the declaration was executed by the occupant; and

4. A statement that:

(a) The occupant has received the notice of the sale to satisfy the lien;

(b) The occupant opposes the sale of the property; and

(c) The occupant understands that ~~[the owner may commence an~~] ***any*** action ~~[for the amount~~] ***concerning the validity*** of the lien ~~[and the costs of the action.~~] ***must be commenced not later than 21 days after the date on***

which the owner receives the declaration in opposition to the sale as required pursuant to NRS 108.477.

Sec. 17. NRS 108.477 is hereby amended to read as follows:

108.477 1. If the declaration in opposition to the lien sale executed by the occupant is not received by the date of the sale specified in the notice mailed to the occupant, the owner may sell the property.

2. The owner shall advertise the sale once a week for 2 consecutive weeks immediately preceding the date of the sale *[on a publicly accessible Internet website and]* in a newspaper of general circulation in the judicial district where the sale is to be held. The advertisement must contain:

(a) A general description of the personal property to be sold;

(b) The name of the occupant;

(c) The number of the individual ***storage*** space **[**for storage**]** at the facility where the personal property was stored; and

(d) The name and address of the facility.

3. *[2.]* If there is no newspaper of general circulation in the judicial district where the sale is to be held, the advertisement must be posted 10 days before the sale in at least six conspicuous places near the place of the sale.

4. *[3.]* The sale must be conducted in a commercially reasonable manner. *[If five or more bidders who are unrelated to the owner are in attendance at a sale held to satisfy the lien, the sale and all proceeds from the sale are deemed to be commercially reasonable.]*

[4.] ***5.*** After deducting the amount of the lien and the costs of the sale, the owner shall retain any excess proceeds from the sale on the behalf of the occupant.

[5.**]** ***6.*** The occupant or any person authorized by the occupant or by an order of the court may claim the excess proceeds or the portion of the proceeds necessary to satisfy the person's claim at any time within 1 year after the date of the sale. After 1 year, the owner shall pay any proceeds remaining from the sale to the treasurer of the county where the sale was held for deposit in the general fund of the county.

Sec. 18. NRS 108.4773 is hereby amended to read as follows:

108.4773 1. Any person who has a security interest in the personal property perfected pursuant to NRS 104.9101 to 104.9709, inclusive, may claim the personal property which is subject to the security interest and to the lien for storage charges by paying the amount due, as specified in the preliminary notice of the lien, for the storage of the property *[.]* , if no declaration in opposition to the sale to satisfy the lien has been executed and returned by the occupant to the owner.

2. Upon payment of the total amount due pursuant to this section, the owner shall deliver the personal property subject to the security interest to the person ***holding such interest and*** paying the amount of the owner's lien. The owner is not liable to any person for any action taken pursuant to this section if the owner complied with the provisions of NRS 108.473 to 108.4783, inclusive **[**.**]** ***, and sections 2 to 6, inclusive, of this act***.

Sec. 18.5. **NRS 108.478 is hereby amended to read as follows:**

108.478 ~~[1.]~~ If ~~[the occupant signs, and returns to]~~ the owner ~~[, the]~~ ***receives a*** declaration in opposition to the sale ~~[, the owner may commence an action in any court of competent jurisdiction to enforce the lien.]~~ ***before the date set forth in the notice of the sale to satisfy the lien:***

1. Except as otherwise provided in subsection 2, the owner must not sell the property until at least 30 days after the date on which the owner receives the declaration in opposition to the sale.

2. ~~[If, after the action to enforce the lien, the owner obtains a judgment against the occupant for the amount of the lien, the owner may enforce the judgment by a sale of the property conducted in a commercially reasonable manner more than 10 days after the notice of the entry of judgment has been filed with the court, unless within that time the occupant pays the amount of the judgment.]~~ ***The occupant must file a complaint in a court of competent jurisdiction not later than 21 days after the date on which the owner receives the declaration in opposition to the sale. If such an action is commenced, the owner must not sell the property unless the court enters judgment in favor of the owner.***

3. ***If the occupant does not commence an action within 21 days after the date on which the owner receives the declaration in opposition to the sale, or if the court enters judgment in favor of the owner, the owner may advertise the property for sale and sell the property as provided in NRS 108.477.***

4. The occupant may stay the enforcement of ~~[the]~~ ***a*** judgment pending an appeal by posting with the court which entered the judgment ~~[,]~~ a bond in an amount equal to 1.5 times the amount of the judgment. If the occupant posts such a bond, the court may order the owner to return the personal property to the occupant.

Sec. 19. NRS 108.4783 is hereby amended to read as follows:

108.4783 Any person who purchases the personal property in good faith at a sale to satisfy the lien or a sale to enforce a judgment on a lien ***:***

1. Does not acquire ownership of any protected property found in the storage space. The person who purchased the protected property in good faith at a sale to satisfy the lien shall, as soon as reasonably practicable, return the protected property to the occupant or, if the occupant cannot be found after reasonable diligence, to the owner, who shall dispose of the protected property in accordance with the provisions of subsection ~~[4]~~ 5 of NRS 108.4763.

2. Except as otherwise provided in subsection 1, takes the property free ***and clear*** of ~~[any interests of the occupant,]~~ ***the rights of any party,*** even though the owner who conducted the sale may have failed to comply with the provisions of NRS 108.473 to 108.4783, inclusive ~~[.]~~ ***, and sections 2 to 6, inclusive, of this act.***

Sec. 20. NRS 40.760 is hereby amended to read as follows:

40.760 1. When a person is using a ***storage space at a*** facility ~~[for storage]~~ as a residence, the owner or the owner's agent shall serve or have served a notice in writing which directs the person to cease using the ~~[facility]~~ ***storage space*** as a residence no later than 24 hours after receiving the notice. The notice must advise the person that:

(a) NRS 108.475 requires the owner to ask the court to have the person evicted if the person has not ceased using the ~~[facility]~~ ***storage space*** as a residence within 24 hours; and

(b) The person may continue to use the ~~[facility]~~ ***storage space*** to store the person's personal property in accordance with the rental agreement.

2. If the person does not cease using the ~~[facility]~~ ***storage space*** as a residence within 24 hours after receiving the notice to do so, the owner of the facility or the owner's agent shall apply by affidavit for summary eviction to the justice of the peace of the township wherein the facility is located. The affidavit must contain:

(a) The date the rental agreement became effective.

(b) A statement that the person is using the ~~[facility]~~ ***storage space*** as a residence.

(c) The date and time the person was served with written notice to cease using the ~~[facility]~~ ***storage space*** as a residence.

(d) A statement that the person has not ceased using the facility as a residence within 24 hours after receiving the notice.

3. Upon receipt of such an affidavit the justice of the peace shall issue an order directing the sheriff or constable of the county to remove the person within 24 hours after receipt of the order. The sheriff or constable shall not remove the person's personal property from the facility.

4. For the purposes of this section ~~[, "facility for storage"]~~ ***:***

(a) "Facility" means real property divided into individual ***storage*** spaces . ~~[which are rented or leased for storing personal property.]~~ The term does not include a garage or storage area in a private residence.

(b) "Storage space" means a space used for storing personal property, which is rented or leased to an individual occupant who has access to the space.

Sec. 21. NRS 597.890 is hereby amended to read as follows:

597.890 1. The owner of a facility for the storage of personal property or a person acting on his or her behalf shall not advertise that the facility is "climate controlled" unless the advertisement specifies the range of the minimum and maximum temperature and humidity within which the facility is maintained.

2. If an owner or a person acting on his or her behalf fails to indicate the range of temperature and humidity of a facility in any advertisement that refers to it as being "climate controlled" or fails to maintain the temperature and humidity of the facility within the advertised range, the owner is guilty of a misdemeanor and is liable to the occupant for any damages that are caused

to the occupant's personal property as a result of extremes in temperature or humidity, notwithstanding any contrary provision in the rental agreement.

3. As used in this section, the terms "facility," "occupant," "owner," "personal property" and "rental agreement" have the meanings ascribed to them respectively in NRS 108.4733 to 108.4745, inclusive ~~[.]~~ ***, and sections 2 to 5, inclusive, of this act.***

Sec. 22. ~~[NRS 108.4765 and 108.478 are hereby repealed.]~~ **(Deleted by amendment.)**

~~[~~

~~TEXT OF REPEALED SECTIONS~~

~~108.4765 Occupant's declaration of opposition to sale.~~

~~The occupant may prevent a sale of the personal property to satisfy the lien if the occupant executes a declaration of opposition to the sale under penalty of perjury and returns the declaration to the owner by certified mail. The declaration must contain the following:~~

~~1. The name, address and signature of the occupant;~~

~~2. The location of the personal property which is to be sold to satisfy a lien;~~

~~3. The date the declaration was executed by the occupant; and~~

~~4. A statement that:~~

~~(a) The occupant has received the notice of the sale to satisfy the lien;~~

~~(b) The occupant opposes the sale of the property; and~~

~~(c) The occupant understands that the owner may commence an action for the amount of the lien and the costs of the action.~~

~~108.478 Action to enforce lien; enforcement of judgment; stay of enforcement pending appeal.~~

~~1. If the occupant signs, and returns to the owner, the declaration in opposition to the sale, the owner may commence an action in any court of competent jurisdiction to enforce the lien.~~

~~2. If, after the action to enforce the lien, the owner obtains a judgment against the occupant for the amount of the lien, the owner may enforce the judgment by a sale of the property conducted in a commercially reasonable manner more than 10 days after the notice of the entry of judgment has been filed with the court, unless within that time the occupant pays the amount of the judgment.~~

~~3. The occupant may stay the enforcement of the judgment pending an appeal by posting with the court which entered the judgment, a bond in an amount equal to 1.5 times the amount of the judgment. If the occupant posts such a bond, the court may order the owner to return the personal property to the occupant.]~~

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 150.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 204.

The following Assembly amendment was read:

Amendment No. 744.

"SUMMARY—Enacts certain amendments to the Uniform Common-Interest Ownership Act. (BDR 10-298)"

"AN ACT relating to common-interest communities; enacting certain amendments to the Uniform Common-Interest Ownership Act; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law relating to common-interest communities is based on the Uniform Common-Interest Ownership Act (UCIOA), which was proposed by the Uniform Law Commission (ULC). (Chapter 116 of NRS) This bill enacts certain amendments to the UCIOA which have been proposed by the ULC.

Sections 2, 40 and 41 of this bill prescribe the manner in which an association must provide notice of meetings of units' owners and of the executive board and any other notice required to be given by an association other than notices relating to the foreclosure of a lien on a unit held by the association.

Section 4 of this bill authorizes the executive board or any other ~~[interested]~~ person **with an interest in the common-interest community** to commence an action in the district court for the termination of a common-interest community if: (1) substantially all the units in the common-interest community have been destroyed or are uninhabitable; and (2) the available methods for giving notice of a meeting of units' owners to consider termination are not likely to result in receipt of the notice.

Sections 5 and 6 of this bill reorganize and reenact certain provisions of existing law relating to the indemnification of members of executive boards and the provision of equal space to opposing views in official publications under certain circumstances. Additionally, **section 6** enacts provisions providing for equal time for candidates and representatives of ballot questions on a closed-circuit television station maintained by an association.

Under existing law, the definitions applicable to laws relating to common-interest communities apply to the declarations and bylaws of associations. (NRS 116.003) **Section 7** of this bill ~~[provides]~~ **clarifies** that those definitions ~~[no longer]~~ apply to those declarations and bylaws.

Sections 8-16 of this bill change certain definitions set forth in existing law to conform to the language of the UCIOA.

Existing law provides that other principles of law, including, without limitation, the law of corporations and the law of unincorporated associations, supplement the existing law relating to common-interest communities. (NRS 116.1108) **Section 18** of this bill provides that the laws governing other forms of organization supplement the existing law relating to common-interest communities.

Sections 20-22 of this bill adopt the language of certain amendments to the UCIOA relating to the applicability of existing law governing

common-interest communities. **Section 21 also requires certain associations containing not more than 12 units to provide each unit with a copy of any changes made to the governing documents within 30 days after such changes are made.**

Sections 24-31 of this bill adopt the language of certain amendments to the UCIOA relating to the creation, alteration and termination of common-interest communities. **Section 29** grants units' owners the right to use the common elements for the purposes for which they were intended rather than granting an easement to use the common elements for all purposes. **Section 30** amends provisions relating to requirements for amending the declaration of a common-interest community and to the enforcement of certain amendments. **Section 31** amends the requirements for the termination of a common-interest community.

Sections 32-51 of this bill enact certain amendments to the UCIOA which relate to the governance of common-interest communities. **Section 32** requires ~~[the]~~ **an** association **larger than 12 units** to have an executive board and allows ~~[the]~~ **an** association to be organized as any form of organization authorized by the law of this State. **Section 33** allows the executive board not to take enforcement action if it determines that: (1) the law does not support such action; (2) the violation is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or (3) it is not in the best interest of the association to pursue an enforcement action. **Section 34** provides that officers of the association and members of the executive board are subject to the conflict of interest rules which govern officers and directors of nonprofit corporations organized under the law of this State. **Section 34.5 provides that if an association seeks to impose and enforce a construction penalty, the association must provide notice of the maximum allowable penalty and schedule in the public offering statement or resale package. Section 36** authorizes a declarant to end the period of declarant's control by giving notice to units' owners and recording an instrument stating that the declarant surrenders all rights to control activities of the association. **Section 37** amends provisions relating to the removal of members of the executive board. **Section 38** amends provisions relating to the termination of certain contracts entered into before the election of an executive board by units' owners. **Section 40** provides that the portion of a meeting of the units' owners devoted to comments by units' owners is limited to comments by units' owners regarding any matter affecting the common-interest community or the association. **Section 42** amends requirements for determining whether a quorum is present at a meeting of the executive board to provide that a majority of the votes on the executive board must be present at the time a vote is taken rather than at the beginning of the meeting. **Section 43** authorizes units' owners to vote by absentee ballot at a meeting of the units' owners. **Section 44** provides that a unit's owner is not liable, by reason of being a unit's owner, for injuries or damage arising out of the condition or use of the common elements. **Sections 45 and 59.5** of this

bill require an association to obtain crime insurance and remove the requirement that a community manager post a bond. **Section 45** also requires the association to maintain property, liability and crime insurance subject to reasonable deductibles. **Section 48** amends provisions relating to common expenses caused by a unit's owner, a tenant or an invitee of a unit's owner or tenant. **Section 49** ~~[amends provisions relating to liens for certain charges imposed by an association and]~~ authorizes a court to appoint a receiver when an association brings an action to foreclose a lien or collect assessments. **Sections 51 and 60** amend provisions relating to the books and records of an association and the inspection of such books and records by units' owners.

Sections 52-58 of this bill enact certain amendments to the UCIOA which relate to the disclosures provided to purchasers of real estate located in a common-interest community and the warranties applicable to real estate located in a common-interest community. **Section 52** exempts the disposition of a unit restricted to nonresidential purposes from the requirement to provide a public offering statement or certificate of resale. **Section 53** amends the information required to be included in the public offering statement provided to an initial purchaser of a unit.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***1. Except as otherwise provided in subsection 3, an association shall deliver any notice required to be given by the association under this chapter to any mailing or electronic mail address a unit's owner designates. Except as otherwise provided in subsection 3, if a unit's owner has not designated a mailing or electronic mail address to which a notice must be delivered, the association may deliver notices by:***

(a) Hand delivery to each unit's owner;

(b) Hand delivery, United States mail, postage paid, or commercially reasonable delivery service to the mailing address of each unit;

(c) Electronic means, if the unit's owner has given the association an electronic mail address; or

(d) Any other method reasonably calculated to provide notice to the unit's owner.

2. The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.

3. The provisions of this section do not apply:

(a) To a notice required to be given pursuant to NRS 116.3116 to 116.31168, inclusive; or

(b) If any other provision of this chapter specifies the manner in which a notice must be given by an association.

Sec. 3. ***This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but does not modify, limit or supersede***

Section 101(c) of that Act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. § 7003(b).

Sec. 4. ***If substantially all the units in a common-interest community have been destroyed or are uninhabitable and the available methods for giving notice under NRS 116.3108 of a meeting of units' owners to consider termination under NRS 116.2118 will not likely result in receipt of the notice, the executive board or any other [interested] person holding an interest in the common-interest community may commence an action in the district court of the county in which the common-interest community is located seeking to terminate the common-interest community. During the pendency of the action, the court may issue whatever orders it considers appropriate, including, without limitation, an order for the appointment of a receiver. After a hearing, the court may terminate the common-interest community or reduce its size and may issue any other order the court considers to be in the best interest of the units' owners and persons holding an interest in the common-interest community.***

Sec. 5. ***If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his or her role as a member of the board, the association shall indemnify the member for his or her losses or claims, and undertake all costs of defense, unless it is proven that the member acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted.***

Sec. 6. ***1. If an official publication contains any mention of a candidate or ballot question, the official publication must, upon request and under the same terms and conditions, provide equal space to all candidates or to a representative of an organization which supports the passage or defeat of the ballot question.***

2. If an official publication contains the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and under the same terms and conditions, provide equal space to opposing views and opinions of a unit's owner of the common-interest community.

3. If an association has a closed-circuit television station and that station interviews, or provides time to, a candidate or a representative of an organization which supports the passage or defeat of a ballot question, the closed-circuit television station must, under the same terms and conditions, allow equal time for all candidates or a representative of an opposing view to the ballot question.

4. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and

which occurs in the course of carrying out any duties required pursuant to subsection 1, 2 or 3.

5. As used in this section:

(a) "Issue of official interest" means:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, elections; and

(2) The enactment or adoption of rules or regulations that will affect the common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner.

Sec. 7. NRS 116.003 is hereby amended to read as follows:

116.003 As used in this chapter ~~,~~ and in the declaration and bylaws of an association**,** ~~[~~unless the context otherwise requires,~~]~~ the words and terms defined in NRS 116.005 to 116.095, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 116.007 is hereby amended to read as follows:

116.007 **[**1.**]** "Affiliate of a declarant" means any person who controls, is controlled by or is under common control with a declarant.

~~[~~2.~~]~~ ***For purposes of this section:***

1. A person ~~[~~"controls"~~]~~ ***controls*** a declarant if the person:

(a) Is a general partner, officer, director or employer of the declarant;

(b) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the declarant;

(c) Controls in any manner the election of a majority of the directors of the declarant; or

(d) Has contributed more than 20 percent of the capital of the declarant.

~~[~~3.~~]~~ ***2.*** A person ~~[~~"is~~]~~ ***is*** controlled ~~[~~by"~~]~~ ***by*** a declarant if the declarant:

(a) Is a general partner, officer, director or employer of the person;

(b) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the person;

(c) Controls in any manner the election of a majority of the directors of the person; or

(d) Has contributed more than 20 percent of the capital of the person.

~~[~~4.~~]~~ ***3.*** Control does not exist if the powers described in this section are held solely as security for an obligation and are not exercised.

Sec. 9. NRS 116.009 is hereby amended to read as follows:

116.009 "Allocated interests" means the following interests allocated to each unit:

1. In a condominium, the undivided interest in the common elements, the liability for common expenses, and votes in the association;

2. In a cooperative, the liability for common expenses ***,*** ~~[and]~~ the ownership ***interest*** and votes in the association; and

3. In a planned community, the liability for common expenses and votes in the association.

Sec. 10. NRS 116.017 is hereby amended to read as follows:

116.017 "Common elements" means:

1. In ~~[a]~~ ***the case of:***

(a) A condominium or cooperative, all portions of the common-interest community other than the units, including easements in favor of units or the common elements over other units **.** ~~[; and~~

~~2. In a]~~

(b) A planned community, any real estate within ~~[the]~~ ***a*** planned community ***which is*** owned or leased by the association, other than a unit.

2. In all common-interest communities, any other interests in real estate for the benefit of units' owners which are subject to the declaration.

Sec. 11. NRS 116.035 is hereby amended to read as follows:

116.035 "Declarant" means any person or group of persons acting in concert who:

1. As part of a common promotional plan, offers to dispose of ~~[his or her or its]~~ ***the*** interest ***of the person or group of persons*** in a unit not previously disposed of; or

2. Reserves or succeeds to any special declarant's right.

Sec. 12. NRS 116.045 is hereby amended to read as follows:

116.045 "Executive board" means the body, regardless of name, designated in the declaration ***or bylaws*** to act on behalf of the association.

Sec. 13. NRS 116.079 is hereby amended to read as follows:

116.079 "Purchaser" means a person, other than a declarant or a dealer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than ~~[a]~~ *:*

1. A leasehold interest, including options to renew, of less than 20 years ~~[, or as]~~ ***; or***

2. As security for an obligation.

Sec. 14. NRS 116.081 is hereby amended to read as follows:

116.081 "Real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interests that by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. ~~["Real estate"]~~ ***The term*** includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water.

Sec. 15. NRS 116.089 is hereby amended to read as follows:

116.089 "Special declarant's rights" means rights reserved for the benefit of a declarant to:

1. Complete improvements indicated on plats or in the declaration ~~[(NRS 116.2109)]~~ or, in a cooperative, to complete improvements described in the public offering statement pursuant to ***paragraph (b) of*** subsection ~~[2]~~ ***1*** of NRS 116.4103;

2. Exercise any developmental right ***;*** ~~[(NRS 116.211);]~~

3. Maintain sales offices, management offices, signs advertising the common-interest community and models ***;*** ~~[(NRS 116.2115);]~~

4. Use easements through the common elements for the purpose of making improvements within the common-interest community or within real estate which may be added to the common-interest community ***;*** ~~[(NRS 116.2116);]~~

5. Make the common-interest community subject to a master association ***;*** ~~[(NRS 116.212);]~~

6. Merge or consolidate a common-interest community with another common-interest community of the same form of ownership ***;*** ~~[(NRS 116.2121);]~~ or

7. Appoint or remove any officer of the association or any master association or any member of an executive board during any period of declarant's control ***.*** ~~[(NRS 116.31032).]~~

Sec. 16. NRS 116.095 is hereby amended to read as follows:

116.095 "Unit's owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common-interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common-interest community, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium or planned community, the declarant is the owner of any unit created by the declaration until that unit is conveyed to another person. In a cooperative, the declarant is treated as the owner of any unit to which allocated interests have been allocated ~~[(NRS 116.2107)]~~ until that unit has been conveyed to another person.

Sec. 17. NRS 116.1104 is hereby amended to read as follows:

116.1104 Except as expressly provided in this chapter, its provisions may not be varied by agreement, and rights conferred by it may not be waived. ~~[A]~~ ***Except as otherwise provided in paragraph (b) of subsection 2 of NRS 116.12075, a*** declarant may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this chapter or the declaration.

Sec. 18. NRS 116.1108 is hereby amended to read as follows:

116.1108 The principles of law and equity, including the law of corporations ~~[,]~~ ***and any other form of organization authorized by law of this State,*** the law of unincorporated associations, the law of real property, and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, or other validating or invalidating

cause supplement the provisions of this chapter, except to the extent inconsistent with this chapter.

Sec. 19. NRS 116.1114 is hereby amended to read as follows:

116.1114 ~~[1.]~~ The remedies provided by this chapter must be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. Consequential, special or punitive damages may not be awarded except as specifically provided in this chapter or by other rule of law.

~~[2. Any right or obligation declared by this chapter is enforceable by judicial proceeding.]~~

Sec. 20. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155, except that if the limited-purpose association is created for a rural agricultural residential common-interest community, the limited-purpose association is not required to pay the fee unless the association intends to use the services of the Ombudsman;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038;

(II) NRS 116.31083 and 116.31152, unless the limited-purpose association is created for a rural agricultural residential common-interest community;

(III) NRS 116.31073, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and

(IV) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter or a part of this chapter does apply to that planned community pursuant to NRS 116.12075. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real

estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but ~~[~~the provisions of~~]~~ NRS 116.4102 ~~[~~to 116.4108,~~]~~ ***and 116.4103, and, to the extent applicable, NRS 116.41035 to 116.4107,*** inclusive, apply to ~~[~~all contracts~~]~~ ***a contract*** for the disposition ~~[~~thereof~~]~~ ***of a unit in that common-interest community*** signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992;

(d) Except as otherwise provided in subsection 8 of NRS 116.31105, prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives;

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan; or

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to paragraph (b) of subsection 2 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 21. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 3,*** if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. ***The provisions of NRS 116.12065 and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that the definitions are necessary to construe any of those provisions, apply to a residential planned community containing more than 6 units.***

3. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, ***and sections 5 and 6 of this act*** and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than ~~[six]~~ ***6*** units.

Sec. 22. NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter:

(a) Shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

(b) Is superseded by the provisions of this chapter, regardless of whether the provision contained in the declaration, bylaw or other governing document became effective before the enactment of the provision of this chapter that is being violated.

2. In the case of amendments to the declaration, bylaws or plats of any common-interest community created before January 1, 1992:

(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance

with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

3. An amendment to the declaration, bylaws or plats authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and ***, except as otherwise provided in subsection 8 of NRS 116.2117,*** with the procedures and requirements specified by those instruments. If an amendment grants to ~~[any]~~ ***a*** person ~~[any rights, powers or privileges]~~ ***a right, power or privilege*** permitted by this chapter, ~~[all]~~ ***any*** correlative ~~[obligations, liabilities and restrictions]~~ ***obligation, liability or restriction*** in this chapter also ~~[apply to that]~~ ***applies to the*** person.

Sec. 23. NRS 116.12075 is hereby amended to read as follows:

116.12075 1. The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:

(a) This entire chapter applies to the condominium;

(b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and 116.3116 to 116.31168, inclusive, apply to the condominium; or

(c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, apply to the condominium.

2. If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:

(a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and

(b) Notwithstanding NRS 116.1104 and subsection ~~[2]~~ ***3*** of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

Sec. 24. NRS 116.2103 is hereby amended to read as follows:

116.2103 1. The inclusion in a governing document of an association of a provision that violates any provision of this chapter does not render any other provisions of the governing document invalid or otherwise unenforceable if the other provisions can be given effect in accordance with their original intent and the provisions of this chapter.

2. The rule against perpetuities and NRS 111.103 to 111.1039, inclusive, do not apply to defeat any provision of the declaration, bylaws, rules or regulations adopted pursuant to NRS 116.3102.

3. ~~[In the event of]~~ ***If*** a conflict ***exists*** between ~~[the provisions of]~~ the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this chapter.

4. Title to a unit and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this chapter. Whether a substantial failure impairs marketability is not affected by this chapter.

Sec. 25. NRS 116.2105 is hereby amended to read as follows:

116.2105 1. The declaration must contain:

(a) The names of the common-interest community and the association and a statement that the common-interest community is either a condominium, cooperative or planned community;

(b) The name of every county in which any part of the common-interest community is situated;

(c) A ***legally*** sufficient description of the real estate included in the common-interest community;

(d) A statement of the maximum number of units that the declarant reserves the right to create;

(e) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by plats, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;

(f) A description of any limited common elements, other than those specified in subsections 2 and 4 of NRS 116.2102, as provided in paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned community, any real estate that is or must become common elements;

(g) A description of any real estate, except real estate subject to developmental rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in subsections 2 and 4 of NRS 116.2102, together with a statement that they may be so allocated;

(h) A description of any developmental rights and other special declarant's rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time ***limit*** within which each of those rights must be exercised;

(i) If any developmental right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(1) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each developmental right or a statement that no assurances are made in those regards; and

(2) A statement whether, if any developmental right is exercised in any portion of the real estate subject to that developmental right, that

developmental right must be exercised in all or in any other portion of the remainder of that real estate;

(j) Any other conditions or limitations under which the rights described in paragraph (h) may be exercised or will lapse;

(k) An allocation to each unit of the allocated interests in the manner described in NRS 116.2107;

(l) Any restrictions:

(1) On use, occupancy and alienation of the units; and

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on sale, condemnation or casualty to the unit or to the common-interest community, or on termination of the common-interest community;

(m) The file number and book or other information ~~[to show where]~~ ***for recorded*** easements and licenses ~~[are recorded]~~ appurtenant to or included in the common-interest community or to which any portion of the common-interest community is or may become subject by virtue of a reservation in the declaration; and

(n) All matters required by NRS 116.2106 to 116.2109, inclusive, 116.2115, 116.2116 and 116.31032.

2. The declaration may contain any other matters the declarant considers appropriate.

Sec. 26. NRS 116.2106 is hereby amended to read as follows:

116.2106 1. Any lease the expiration or termination of which may terminate the common-interest community or reduce its size must be recorded. Every lessor of those leases in a condominium or planned community shall sign the declaration. The declaration must state:

(a) The recording data ~~[where]~~ ***for*** the lease ~~[is]~~ ***or a statement of where the*** recorded ~~[;]~~ ***lease may be inspected;***

(b) The date on which the lease is scheduled to expire;

(c) A legally sufficient description of the real estate subject to the lease;

(d) Any right of the units' owners to redeem the reversion and the manner whereby those rights may be exercised, or a statement that they do not have those rights;

(e) Any right of the units' owners to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights; and

(f) Any rights of the units' owners to renew the lease and the conditions of any renewal, or a statement that they do not have those rights.

2. After the declaration for a leasehold condominium or leasehold planned community is recorded, neither the lessor nor the lessor's successor in interest may terminate the leasehold interest of a unit's owner who makes timely payment of his or her share of the rent and otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. The leasehold interest of a unit's owner in a condominium or planned

community is not affected by failure of any other person to pay rent or fulfill any other covenant.

3. Acquisition of the leasehold interest of any unit's owner by the owner of the reversion or remainder does not merge the leasehold and freehold interests unless the leasehold interests of all units' owners subject to that reversion or remainder are acquired.

4. If the expiration or termination of a lease decreases the number of units in a common-interest community, the allocated interests must be reallocated in accordance with subsection 1 of NRS 116.1107 as if those units had been taken by eminent domain. Reallocations must be confirmed by an amendment to the declaration prepared, executed and recorded by the association.

Sec. 27. NRS 116.2107 is hereby amended to read as follows:

116.2107 1. The declaration must allocate to each unit:

(a) In a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association **,** ~~[(NRS 116.3115)]~~ and a portion of the votes in the association;

(b) In a cooperative, a proportionate ownership in the association, a fraction or percentage of the common expenses of the association ~~[(NRS 116.3115)]~~ and a portion of the votes in the association; and

(c) In a planned community, a fraction or percentage of the common expenses of the association ~~[(NRS 116.3115)]~~ and a portion of the votes in the association.

2. The declaration must state the formulas used to establish allocations of interests. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.

3. If units may be added to or withdrawn from the common-interest community, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the common-interest community after the addition or withdrawal.

4. The declaration may provide:

(a) That different allocations of votes are made to the units on particular matters specified in the declaration;

(b) For cumulative voting only for the purpose of electing members of the executive board; and

(c) For class voting on specified issues affecting the class if necessary to protect valid interests of the class.

➥ Except as otherwise provided in NRS 116.31032, a declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by this chapter nor may units constitute a class because they are owned by a declarant.

5. Except for minor variations because of rounding, the sum of the liabilities for common expenses and, in a condominium, the sum of the undivided interests in the common elements allocated at any time to all the units must each equal one if stated as a fraction or 100 percent if stated as a

percentage. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

6. In a condominium, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.

7. In a cooperative, any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.

Sec. 28. NRS 116.2113 is hereby amended to read as follows:

116.2113 1. If the declaration expressly so permits, a unit may be subdivided into two or more units. Subject to ~~[~~the provisions of~~]~~ the declaration and ~~[~~other provisions of~~]~~ law ~~[~~,~~]~~ ***other than this chapter,*** upon application of the unit's owner to subdivide a unit, the association shall prepare, execute and record an amendment to the declaration, including **,** in a condominium or planned community **,** the plats, subdividing that unit.

2. The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit ~~[~~.~~]~~ ***or on any other basis the declaration requires.***

Sec. 29. NRS 116.2116 is hereby amended to read as follows:

116.2116 1. Subject to ~~[~~the provisions of~~]~~ the declaration, a declarant has an easement through the common elements as may be reasonably necessary to discharge the declarant's obligations or exercise special declarant's rights, whether arising under this chapter or reserved in the declaration.

2. ~~[~~In a planned community, subject to the provisions of~~]~~ ***Subject to*** paragraph (f) of subsection 1 of NRS 116.3102 and NRS 116.3112, the units' owners have an easement ~~[~~:

~~(a) In~~~~]~~ ***in*** the common elements for purposes of access to their units **.** ~~[~~; and

~~(b) To~~~~]~~

3. Subject to the declaration and any rules adopted by the association, the units' owners have a right to use the common elements ***that are not limited common elements*** and all real estate that must become common elements ~~[~~(paragraph (f) of subsection 1 of NRS 116.2105) for all other~~]~~ ***for the*** purposes ~~[~~.~~]~~ ***for which they were intended.***

~~[~~3.~~]~~ ***4.*** Unless the terms of an easement in favor of an association prohibit a residential use of a servient estate, if the owner of the servient estate has obtained all necessary approvals required by law or any covenant, condition or restriction on the property, the owner may use such property in any manner authorized by law without obtaining any additional approval

from the association. Nothing in this subsection authorizes an owner of a servient estate to impede the lawful and contractual use of the easement.

~~[4.]~~ ***5.*** The provisions of subsection ~~[3]~~ ***4*** do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 30. NRS 116.2117 is hereby amended to read as follows:

116.2117 1. Except as otherwise provided in NRS 116.21175, and except in cases of amendments that may be executed by a declarant under subsection 5 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by ~~[subsection]~~ ***subsections*** 4, ***7 and 8,*** the declaration, including any plats, may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, ~~[or any larger majority]~~ ***unless*** the declaration specifies ~~[. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.]~~ ***a different percentage for all amendments or for specified subjects of amendment. If the declaration requires the approval of another person as a condition of its effectiveness, the amendment is not valid without that approval.***

2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than 1 year after the amendment is recorded.

3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.

4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit ~~[or]~~ ***, change*** the allocated interests of a unit ***or change the uses to which any unit is restricted,*** in the absence of unanimous consent of ~~[the]~~ ***only those*** units' owners ***whose units are*** affected and the consent of a majority of the owners of the remaining units.

5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on

behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

6. An amendment to the declaration which prohibits or materially restricts the permitted uses of ~~*[or behavior in]*~~ ***a unit or the number or other qualifications of persons who may occupy units may not be enforced against a unit's owner who was the owner of the unit on the date of the recordation of the amendment as long as the unit's owner remains the owner of that unit.***

7. A provision in the declaration creating special declarant's rights that have not expired may not be amended without the consent of the declarant.

8. If any provision of this chapter or of the declaration requires the consent of a holder of a security interest in a unit, or an insurer or guarantor of such interest, as a condition to the effectiveness of an amendment to the declaration, that consent is deemed granted if:

(a) The holder, insurer or guarantor has not requested, in writing, notice of any proposed amendment; or

(b) Notice of any proposed amendment is required or has been requested and a written refusal to consent is not received by the association within 60 days after the association delivers notice of the proposed amendment to the holder, insurer or guarantor, by certified mail, return receipt requested, to the address for notice provided by the holder, insurer or guarantor in a prior written request for notice.

Sec. 31. NRS 116.2118 is hereby amended to read as follows:

116.2118 1. Except in the case of a taking of all the units by eminent domain ***,*** ~~[(NRS 116.1107) or]~~ in the case of foreclosure against an entire cooperative of a security interest that has priority over the declaration, ***or in the circumstances described in section 4 of this act,*** a common-interest community may be terminated only by agreement of units' owners to whom at least 80 percent of the votes in the association are allocated, or any larger percentage the declaration specifies ~~[.]~~ ***, and with any other approvals required by the declaration.*** The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses.

2. An agreement to terminate must be evidenced by the execution of an agreement to terminate, or ratifications thereof, in the same manner as a deed, by the requisite number of units' owners. The agreement must specify a date after which the agreement will be void unless it is recorded before that date. An agreement to terminate and all ratifications thereof must be recorded in every county in which a portion of the common-interest community is situated and is effective only upon recordation.

3. In the case of a condominium or planned community containing only units having horizontal boundaries described in the declaration, an agreement to terminate may provide that all of the common elements and units of the common-interest community must be sold following termination. If, pursuant to the agreement, any real estate in the common-interest community is to be

sold following termination, the agreement must set forth the minimum terms of the sale.

4. In the case of a condominium or planned community containing any units not having horizontal boundaries described in the declaration, an agreement to terminate may provide for sale of the common elements, but it may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or all the units' owners consent to the sale.

5. The association, on behalf of the units' owners, may contract for the sale of real estate in a common-interest community, but the contract is not binding on the units' owners until approved pursuant to subsections 1 and 2. If any real estate is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to units' owners and lienholders as their interests may appear, in accordance with NRS 116.21183 and 116.21185. Unless otherwise specified in the agreement to terminate, as long as the association holds title to the real estate, each unit's owner and his or her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit. During the period of that occupancy, each unit's owner and his or her successors in interest remain liable for all assessments and other obligations imposed on units' owners by this chapter or the declaration.

6. In a condominium or planned community, if the real estate constituting the common-interest community is not to be sold following termination, title to the common elements and, in a common-interest community containing only units having horizontal boundaries described in the declaration, title to all the real estate in the common-interest community, vests in the units' owners upon termination as tenants in common in proportion to their respective interests as provided in NRS 116.21185, and liens on the units shift accordingly. While the tenancy in common exists, each unit's owner and his or her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit.

7. Following termination of the common-interest community, the proceeds of ~~[any]~~ ***a*** sale of real estate, together with the assets of the association, are held by the association as trustee for units' owners and holders of liens on the units as their interests may appear.

Sec. 32. NRS 116.3101 is hereby amended to read as follows:

116.3101 1. A unit-owners' association must be organized no later than the date the first unit in the common-interest community is conveyed.

2. The membership of the association at all times consists exclusively of all units' owners or, following termination of the common-interest

community, of all owners of former units entitled to distributions of proceeds under NRS 116.2118, 116.21183 and 116.21185, or their heirs, successors or assigns.

3. ~~*[The]*~~ ***Except for a residential planned community containing not more than 12 units, the association must have an executive board.***

4. The association must:

(a) Be organized as a profit or nonprofit corporation, association, limited-liability company, trust ***,*** ~~[or]~~ partnership ~~[,]~~ ***or any other form of organization authorized by the law of this State;***

(b) Include in its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof, that the purpose of the corporation, association, limited-liability company, trust or partnership is to operate as an association pursuant to this chapter;

(c) Contain in its name the words "common-interest community," "community association," "master association," "homeowners' association" or "unit-owners' association"; and

(d) Comply with the applicable provisions of chapters 78, 81, 82, 86, 87, 87A, 88 and 88A of NRS when filing with the Secretary of State its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof.

Sec. 33. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in this ~~[section,]~~ ***chapter,*** and subject to the provisions of the declaration, the association ***:*** ~~[may do any or all of the following:]~~

(a) ~~[Adopt]~~ ***Shall adopt*** and ***, except as otherwise provided in the bylaws, may*** amend bylaws ~~[,]~~ ***and may adopt and amend*** rules and regulations.

(b) ~~[Adopt]~~ ***Shall adopt*** and ***may*** amend budgets ~~[for revenues, expenditures and reserves and]~~ ***in accordance with the requirements set forth in NRS 116.31151, may*** collect assessments for common expenses from the units' owners ~~[.]~~ ***and may invest funds of the association in accordance with the requirements set forth in NRS 116.311395.***

(c) ~~[Hire]~~ ***May hire*** and discharge managing agents and other employees, agents and independent contractors.

(d) ~~[Institute,]~~ ***May institute,*** defend or intervene in litigation ***or in arbitration, mediation*** or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) ~~[Make]~~ ***May make*** contracts and incur liabilities. Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.

(f) ~~[Regulate]~~ ***May regulate*** the use, maintenance, repair, replacement and modification of common elements.

(g) ~~[Cause]~~ ***May cause*** additional improvements to be made as a part of the common elements.

(h) ~~[Acquire,]~~ ***May acquire,*** hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) ~~[Grant]~~ ***May grant*** easements, leases, licenses and concessions through or over the common elements.

(j) ~~[Impose]~~ ***May impose*** and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners, including, without limitation, any services provided pursuant to NRS 116.310312.

(k) ~~[Impose]~~ ***May impose*** charges for late payment of assessments pursuant to NRS 116.3115.

(l) ~~[Impose]~~ ***May impose*** construction penalties when authorized pursuant to NRS 116.310305.

(m) ~~[Impose]~~ ***May impose*** reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) ~~[Impose]~~ ***May impose*** reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) ~~[Provide]~~ ***May provide*** for the indemnification of its officers and executive board and maintain ~~[directors' and officers']~~ ***directors and officers*** liability insurance.

(p) ~~[Assign]~~ ***May assign*** its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) ~~[Exercise]~~ ***May exercise*** any other powers conferred by the declaration or bylaws.

(r) ~~[Exercise]~~ ***May exercise*** all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) ~~[Direct]~~ ***May direct*** the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the

governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) ~~[Exercise]~~ ***May exercise*** any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not ~~[impose limitations on]~~ ***limit*** the power of the association to deal with the declarant ~~[which are]~~ ***if the limit is*** more restrictive than the ~~[limitations]~~ ***limit*** imposed on the power of the association to deal with other persons.

3. ***The executive board may determine whether to take enforcement action by exercising the association's power to impose sanctions or commence an action for a violation of the declaration, bylaws or rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The executive board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:***

(a) The association's legal position does not justify taking any or further enforcement action;

(b) The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with current law;

(c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or

(d) It is not in the association's best interests to pursue an enforcement action.

4. The executive board's decision under subsection 3 not to pursue enforcement under one set of circumstances does not prevent the executive board from taking enforcement action under another set of circumstances, but the executive board may not be arbitrary or capricious in taking enforcement action.

5. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television,

electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 34. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board ~~[may act in all instances]~~ ***acts*** on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries and shall act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association. ~~[The]~~ ***Officers and*** members of the executive board ~~[are]~~ ***:***

(a) Are required to exercise the ordinary and reasonable care of ***officers and*** directors of a ***nonprofit*** corporation, subject to the business-judgment rule ~~[.]~~ ***; and***

(b) Are subject to conflict of interest rules governing the officers and directors of a nonprofit corporation organized under the law of this State.

2. The executive board may not act ~~[on behalf of the association]~~ to ~~[amend]~~ ***:***

(a) Amend the declaration ***.*** ~~[,]~~ ~~[to terminate]~~ ~~*[except as otherwise provided in NRS 116.2117.]*~~

(b) Terminate the common-interest community ***.*** ~~[, or to elect]~~

(c) Elect members of the executive board ~~[or determine their]~~ ***, but unless the governing documents provide that a vacancy on the executive board must be filled by a vote of the membership of the association, the executive board may fill vacancies in its membership for the unexpired portion of any term or until the next regularly scheduled election of executive board members, whichever is earlier. Any executive board member elected to a previously vacant position which was temporarily filled by board appointment may only be elected to fulfill the remainder of the unexpired portion of the term.***

(d) Determine the qualifications, powers ***,*** ~~[and]~~ duties or terms of office ~~[, but the executive board may fill vacancies in its membership for the unexpired portion of any term unless the governing documents provide that a vacancy on the executive board must be filled by a vote of the membership of the association.]~~ ***of members of the executive board.***

3. The executive board shall adopt budgets as provided in NRS 116.31151.

Sec. 34.5. **NRS 116.310305 is hereby amended to read as follows:**

116.310305 1. A unit's owner shall adhere to a schedule required by the association for:

(a) The completion of the design of a unit or the design of an improvement to a unit;

(b) The commencement of the construction of a unit or the construction of an improvement to a unit;

(c) The completion of the construction of a unit or the construction of an improvement to the unit; or

(d) The issuance of a permit which is necessary for the occupancy of a unit or for the use of an improvement to a unit.

2. The association may impose and enforce a construction penalty against a unit's owner who fails to adhere to a schedule as required pursuant to subsection 1 if:

(a) The ~~[maximum amount of the]~~ ***right to assess and collect a*** construction penalty ~~[and the schedule are]~~ ***is*** set forth in:

(1) The declaration;

(2) Another document related to the common-interest community that is recorded before the date on which the unit's owner acquired title to the unit; or

(3) A contract between the unit's owner and the association; ~~[and]~~

(b) ***The association has included notice of the maximum amount of the construction penalty and schedule as part of any public offering statement or resale package required by this chapter; and***

(c) The unit's owner receives notice of the alleged violation which informs the unit's owner that he or she has a right to a hearing on the alleged violation.

3. For the purposes of this chapter, a construction penalty is not a fine.

Sec. 35. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or an invitee of a unit's owner or a tenant violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or the invitee of the unit's owner or the tenant from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or the invitee of the unit's owner or the tenant from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or the invitee of the unit's owner or the tenant for each violation, except that:

(1) A fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305; and

(2) A fine may not be imposed against a unit's owner or a tenant or invitee of a unit's owner or a tenant for a violation of the governing documents which involves a vehicle and which is committed by a person who is delivering goods to, or performing services for, the unit's owner or tenant or invitee of the unit's owner or the tenant.

➥ If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate

with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 against a unit's owner for a violation of any provision of the governing documents of an association committed by an invitee of the unit's owner or the tenant unless the unit's owner:

(a) Participated in or authorized the violation;

(b) Had prior notice of the violation; or

(c) Had an opportunity to stop the violation and failed to do so.

3. ***If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.***

4. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the unit's owner and, if different, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the unit's owner and, if different, the person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

➥ For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is mailed to the address of the unit and, if different, to a mailing address specified by the unit's owner.

~~[4.]~~ ***5.*** The executive board must schedule the date, time and location for the hearing on the violation so that the unit's owner and, if different, the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

~~[5.]~~ ***6.*** The executive board must hold a hearing before it may impose the fine, unless the fine is paid before the hearing or unless the unit's owner and, if different, the person against whom the fine will be imposed:

(a) Executes a written waiver of the right to the hearing; or

(b) Fails to appear at the hearing after being provided with proper notice of the hearing.

~~[6.]~~ ***7.*** If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

~~[7.]~~ ***8.*** If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

~~[8.]~~ ***9.*** A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:

(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.

(b) Casts a vote in violation of this subsection, the vote is void.

~~[9.]~~ ***10.*** The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

~~[10.]~~ ***11.*** Any past due fine must not bear interest, but may include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

~~[11.]~~ ***12.*** If requested by a person upon whom a fine was imposed, not later than 60 days after receiving any payment of a fine, an association shall provide to the person upon whom the fine was imposed a statement of the remaining balance owed.

Sec. 36. NRS 116.31032 is hereby amended to read as follows:

116.31032 1. Except as otherwise provided in this section, the declaration may provide for a period of declarant's control of the association, during which a declarant, or persons designated by a declarant, may appoint and remove the officers of the association and members of the executive board. ***A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period and, in that event, the declarant may require, for the duration***

of the period of declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective. Regardless of the period provided in the declaration, a period of declarant's control terminates no later than ~~[:]~~ ***the earliest of:***

(a) Sixty days after conveyance of 75 percent of the units that may be created to units' owners other than a declarant or, if the association exercises powers over a common-interest community pursuant to this chapter and a time-share plan pursuant to chapter 119A of NRS, 120 days after conveyance of 80 percent of the units that may be created to units' owners other than a declarant;

(b) Five years after all declarants have ceased to offer units for sale in the ordinary course of business; ~~[or]~~

(c) Five years after any right to add new units was last exercised ~~[,~~ ~~whichever occurs earlier.]~~ ***; or***

(d) The day the declarant, after giving notice to units' owners, records an instrument voluntarily surrendering all rights to control activities of the association.

2. ~~[A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event the declarant may require, for the duration of the period of declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.~~

~~3.]~~ Not later than 60 days after conveyance of 25 percent of the units that may be created to units' owners other than a declarant, at least one member and not less than 25 percent of the members of the executive board must be elected by units' owners other than the declarant. Not later than 60 days after conveyance of 50 percent of the units that may be created to units' owners other than a declarant, not less than ~~[33 1/3 percent]~~ ***one-third*** of the members of the executive board must be elected by units' owners other than the declarant.

Sec. 37. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section ~~[:~~

~~(a) The]~~ ***, the*** number of votes cast ***in favor of removal*** constitutes ~~[at]~~ ***:***

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election ***.*** ~~[are cast in favor of removal.]~~

2. ***A removal election may be called by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the***

total number of voting members of the association. To call a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this subsection and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If a removal election is called pursuant to this subsection and:

(a) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to this section:

(1) The secret written ballots for the removal election must be sent in the manner required by this section not less than 15 days or more than 60 days after the date on which the petition is received; and

(2) The executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots and not later than 90 days after the date on which the petition was received.

(b) The voting rights of the owners of time shares will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 90 days after the date on which the petition is received.

➥ The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.

3. Except as otherwise provided in NRS 116.31105, the removal of any member of the executive board must be conducted by secret written ballot in the following manner:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

~~[3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his or her role as a member of the board, the association shall indemnify the member for his or her losses or claims, and undertake all costs of defense, unless it is proven that the member acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against:~~

~~(a) The association;~~

~~(b) The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or~~

~~(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.~~

~~4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.]~~

Sec. 38. NRS 116.3105 is hereby amended to read as follows:

116.3105 ~~[If entered into before]~~

1. Within 2 years after the executive board elected by the units' owners pursuant to NRS 116.31034 takes office, ~~[any]~~ ***the association may terminate without penalty, upon not less than 90 days' notice to the other party, any of the following if it was entered into before that executive board was elected:***

(a) Any management ~~[contract,]~~ ***, maintenance, operations or*** employment contract, or lease of recreational or parking areas or facilities ~~[, any]~~ ***; or***

(b) Any other contract or lease between the association and a declarant or an affiliate of a declarant ***.*** ~~[or any contract or lease that is not in good faith or was unconscionable to the units' owners at the time entered into under the circumstances then prevailing may be terminated]~~

2. The association may terminate without penalty ***,*** ~~[by the association]~~ at any time after the executive board elected by the units' owners ***pursuant to NRS 116.31034*** takes office upon not less than 90 days' notice to the other party ~~[.]~~ ***, any contract or lease that is not in good faith or was unconscionable to the units' owners at the time entered into.***

3. This section does not apply to ~~[any]~~ ***:***

(a) Any lease the termination of which would terminate the common-interest community or reduce its size, unless the real estate subject to that lease was included in the common-interest community for the purpose of avoiding the right of the association to terminate a lease under this section ~~[, or to a]~~ ***; or***

(b) A proprietary lease.

Sec. 39. NRS 116.3106 is hereby amended to read as follows:

116.3106 1. The bylaws of the association must ***:*** ~~[provide:]~~

(a) ~~[The]~~ ***Provide the*** number of members of the executive board and the titles of the officers of the association;

(b) ~~[For]~~ ***Provide for*** election by the executive board of a president, treasurer, secretary and any other officers of the association the bylaws specify;

(c) ~~[The]~~ ***Specify the*** qualifications, powers and duties, terms of office and manner of electing and removing officers of the association and members of the executive board and filling vacancies;

(d) ~~[Which]~~ ***Specify the*** powers ~~[, if any, that]~~ the executive board or the officers of the association may delegate to other persons or to a community manager;

(e) ~~[Which of its]~~ ***Specify the*** officers ***who*** may prepare, execute, certify and record amendments to the declaration on behalf of the association;

(f) ~~[Procedural]~~ ***Provide procedural*** rules for conducting meetings of the association;

(g) ~~[A]~~ ***Specify a*** method for ~~[amending]~~ ***the units' owners to amend*** the bylaws; ~~[and]~~

(h) ~~[Procedural]~~ ***Provide procedural*** rules for conducting elections ~~[.]~~ ***;***

(i) Contain any provision necessary to satisfy requirements in this chapter or the declaration concerning meetings, voting, quorums and other activities of the association; and

(j) Provide for any matter required by law of this State other than this chapter to appear in the bylaws of organizations of the same type as the association.

2. Except as otherwise provided in *this chapter or* the declaration, the bylaws may provide for any other ***necessary or appropriate*** matters ~~[the association deems necessary and appropriate.]~~ ***, including, without limitation, matters that could be adopted as rules.***

3. The bylaws must be written in plain English.

Sec. 40. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year ~~[.]~~ ***at a time and place stated in or fixed in accordance with the bylaws.*** If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. ~~[Special meetings]~~ ***An association shall hold a special meeting*** of the units' owners ~~[may be called by the]~~ ***to address any matter affecting the common-interest community or the association if its*** president, ~~[by]~~ a majority of the executive board or ~~[by]~~ units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of ~~[voting members of]~~ ***votes in*** the association ~~[. The same number~~

~~of units' owners may also call a removal election pursuant to NRS 116.31036.]~~ ***request that the secretary call such a meeting.*** To call a special meeting ***,*** ~~[or a removal election,]~~ the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this subsection and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. ~~[If the petition calls for a removal election and:~~

~~(a) The voting rights of the owners of time shares will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or~~

~~(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.~~

~~➥]~~ The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be ~~[hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner.]~~ ***given to the units' owners in the manner set forth in section 2 of this act.*** The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners ***regarding any matter affecting the common-interest community or the association*** and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. ~~[If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.~~

~~6.]~~ The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

~~[7.]~~ ***6.*** Except as otherwise provided in subsection ~~[8.]~~ *7,* the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

~~[8.]~~ ***7.*** The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

~~[9.]~~ ***8.*** The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

~~[10.]~~ ***9.*** A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his or her intent to record the meeting to the other units' owners who are in attendance at the meeting.

~~[11.]~~ ***10.*** The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

~~[12.]~~ ***11.*** As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 41. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every quarter, and not less than once every 100 days and must be held at a time other than during standard business hours at least twice annually.

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) ~~[Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;~~

~~(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or~~

~~(c)]~~ ***Given to the units' owners in the manner set forth in section 2 of this act; or***

(b) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is

impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the audio recording, the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. A period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for both the beginning and the end of each meeting. During the period devoted to comments by the units' owners and discussion of those comments at the beginning of each meeting, comments by the units' owners and discussion of those comments must be limited to items listed on the agenda. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every quarter, and not less than once every 100 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. The secretary or other officer specified in the bylaws shall cause each meeting of the executive board to be audio recorded and the minutes to be recorded or otherwise taken at each meeting of the executive board, but if the executive board is meeting in executive session, the meeting must not be audio recorded. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the audio recording of the

meeting, the minutes of the meeting and a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the audio recording, the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his or her intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 42. NRS 116.3109 is hereby amended to read as follows:

116.3109 1. Except as otherwise provided in this section and NRS 116.31034, and except when the governing documents provide otherwise, a quorum is present throughout any meeting of the ~~[~~association if

~~the number of members of~~] ***units' owners if persons entitled to cast 20 percent of the votes in*** the association ~~[who are]~~ ***:***

(a) Are present in person ~~[or]~~ ***;***

(b) Are present by proxy ~~[at the beginning of the meeting equals or exceeds 20 percent of the total number of voting members of the association.]~~ ***;***

(c) Have cast absentee ballots in accordance with paragraph (d) of subsection 2 of NRS 116.311; or

(d) Are present by any combination of paragraphs (a), (b) and (c).

2. If the governing documents of an association contain a quorum requirement for a meeting of the association that is greater than the 20 percent required by subsection 1 and, after proper notice has been given for a meeting, the members of the association who are present in person or by proxy at the meeting are unable to hold the meeting because a quorum is not present at the beginning of the meeting, the members who are present in person at the meeting may adjourn the meeting to a time that is not less than 48 hours or more than 30 days from the date of the meeting. At the subsequent meeting:

(a) A quorum shall be deemed to be present if the number of members of the association who are present in person or by proxy at the beginning of the subsequent meeting equals or exceeds 20 percent of the total number of voting members of the association; and

(b) If such a quorum is deemed to be present but the actual number of members who are present in person or by proxy at the beginning of the subsequent meeting is less than the number of members who are required for a quorum under the governing documents, the members who are present in person or by proxy at the subsequent meeting may take action only on those matters that were included as items on the agenda of the original meeting.

➥ The provisions of this subsection do not change the actual number of votes that are required under the governing documents for taking action on any particular matter.

3. Unless the governing documents specify a larger ~~[percentage,]~~ ***number,*** a quorum ***of the executive board*** is ~~[deemed]~~ present ~~[throughout any]~~ ***for purposes of determining the validity of any action taken at a*** meeting of the executive board ***only*** if ~~[persons]~~ ***individuals*** entitled to cast ~~[50 percent]~~ ***a majority*** of the votes on that board are present at the ~~[beginning of the meeting.]~~ ***time a vote regarding that action is taken. If a quorum is present when a vote is taken, the affirmative vote of a majority of the members present is the act of the executive board unless a greater vote is required by the declaration or bylaws.***

4. Meetings of the association must be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised, unless the bylaws or a resolution of the executive board adopted before the meeting provide otherwise.

Sec. 43. NRS 116.311 is hereby amended to read as follows:

116.311 1. ***Unless prohibited or limited by the declaration or bylaws and except as otherwise provided in this section, units' owners may vote at a meeting in person, by absentee ballot pursuant to paragraph (d) of subsection 2, by a proxy pursuant to subsections 3 to 8, inclusive, or, when a vote is conducted without a meeting, by electronic or paper ballot pursuant to subsection 9.***

2. At a meeting of units' owners, the following requirements apply:

(a) Units' owners who are present in person may vote by voice vote, show of hands, standing or any other method for determining the votes of units' owners, as designated by the person presiding at the meeting.

(b) If only one of several owners of a unit is present ***,*** ~~[at a meeting of the association,]~~ that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to ~~[that]~~ ***the*** unit without protest ***being*** made promptly to the person presiding over the meeting by any of the other owners of the unit.

~~[2.]~~ ***(c) Unless a greater number or fraction of the votes in the association is required by this chapter or the declaration, a majority of the votes cast determines the outcome of any action of the association.***

(d) Subject to subsection 1, a unit's owner may vote by absentee ballot without being present at the meeting. The association promptly shall deliver an absentee ballot to an owner who requests it if the request is made at least 3 days before the scheduled meeting. Votes cast by absentee ballot must be included in the tally of a vote taken at that meeting.

(e) When a unit's owner votes by absentee ballot, the association must be able to verify that the ballot is cast by the unit's owner having the right to do so.

3. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his or her immediate family, a tenant of the unit's owner who resides in the common-interest community, another unit's owner who resides in the common-interest community, or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.

~~[3.]~~ ***4.*** Before a vote may be cast pursuant to a proxy:

(a) The proxy must be dated.

(b) The proxy must not purport to be revocable without notice.

(c) The proxy must designate the meeting for which it is executed ~~[.]~~ ***, and such a designation includes any recessed session of that meeting.***

(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.

(e) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed ***and any recessed session of that meeting*** the number of proxies pursuant to which the holder will be casting votes.

~~[4.]~~ ***5.*** A proxy terminates immediately after the conclusion of the meeting ***, and any recessed sessions of the meeting,*** for which it is executed.

~~[5.]~~ ***6.*** Except as otherwise provided in this subsection, a vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association. A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.

~~[6.]~~ ***7.*** The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.

~~[7.]~~ ***8.*** A proxy is void if the proxy or the holder of the proxy violates any provision of subsections ~~[1]~~ ***3*** to ~~[6,]~~ ***7,*** inclusive.

~~[8.]~~ ***9. Unless prohibited or limited by the declaration or bylaws, an association may conduct a vote without a meeting. Except as otherwise provided in NRS 116.31034 and 116.31036, if an association conducts a vote without a meeting, the following requirements apply:***

(a) The association shall notify the units' owners that the vote will be taken by ballot.

(b) The association shall deliver a paper or electronic ballot to every unit's owner entitled to vote on the matter.

(c) The ballot must set forth each proposed action and provide an opportunity to vote for or against the action.

(d) When the association delivers the ballots, it shall also:

(1) Indicate the number of responses needed to meet the quorum requirements;

(2) State the percentage of votes necessary to approve each matter other than election of directors;

(3) Specify the time and date by which a ballot must be delivered to the association to be counted, which time and date may not be fewer than 3 days after the date the association delivers the ballot; and

(4) Describe the time, date and manner by which units' owners wishing to deliver information to all units' owners regarding the subject of the vote may do so.

(e) Except as otherwise provided in the declaration or bylaws, a ballot is not revoked after delivery to the association by death or disability of or attempted revocation by the person who cast that vote.

(f) Approval by ballot pursuant to this subsection is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.

10. If the declaration requires that votes on specified matters affecting the common-interest community must be cast by the lessees of leased units rather than the units' owners who have leased the units:

(a) ~~[The provisions of subsections 1 to 7, inclusive, apply]~~ ***This section applies*** to the lessees as if they were the units' owners;

(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;

(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and

(d) The units' owners must be given notice, in the manner provided in NRS 116.3108, of all meetings at which the lessees are entitled to vote.

~~[9.]~~ ***11.*** If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

Sec. 44. NRS 116.3111 is hereby amended to read as follows:

116.3111 ***1. A unit's owner is not liable, solely by reason of being a unit's owner, for an injury or damage arising out of the condition or use of the common elements.*** Neither the association nor any unit's owner except the declarant is liable for that declarant's torts in connection with any part of the common-interest community which that declarant has the responsibility to maintain. ~~[Otherwise, an]~~

2. An action alleging a wrong done by the association ~~[must be brought]~~ ***, including, without limitation, an action arising out of the condition or use of the common elements, may be maintained only*** against the association and not against any unit's owner. If the wrong occurred during any period of declarant's control and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit's owner for all tort losses not covered by insurance suffered by the association or that unit's owner, and all costs that the association would not have incurred but for a breach of contract or other wrongful act or omission. Whenever the

declarant is liable to the association under this section, the declarant is also liable for all expenses of litigation, including reasonable attorney's fees, incurred by the association. ~~[Any]~~

3. Except as otherwise provided in subsection 4 of NRS 116.4116 with respect to warranty claims, any statute of limitation affecting the association's right of action ***against a declarant*** under this section is tolled until the period of declarant's control terminates. A unit's owner is not precluded from maintaining an action contemplated by this section because he or she is a unit's owner or a member or officer of the association. ***Liens resulting from judgments against the association are governed by NRS 116.3117.***

Sec. 45. NRS 116.3113 is hereby amended to read as follows:

116.3113 1. Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available ~~[, both of the following:]~~ ***and subject to reasonable deductibles:***

(a) Property insurance on the common elements and, in a planned community, also on property that must become common elements, insuring against ~~[all]~~ risks of direct physical loss commonly insured against ~~[or, in the case of a converted building, against fire and extended coverage perils. The total amount of]~~ ***, which*** insurance ***,*** after application of any deductibles ***,*** must be not less than 80 percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies ***;*** ~~[.]~~

(b) ~~[Liability]~~ ***Commercial general liability*** insurance, including insurance for medical payments, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for ~~[death,]~~ bodily injury ~~[,]~~ and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements and, in cooperatives, also of all units ~~[.]~~ ***; and***

(c) Crime insurance which includes coverage for dishonest acts by members of the executive board and the officers, employees, agents, directors and volunteers of the association and which extends coverage to any business entity that acts as the community manager of the association and the employees of that entity. Such insurance may not contain a conviction requirement, and the minimum amount of the policy must be not less than an amount equal to 3 months of aggregate assessments on all units plus reserve funds ~~*[.]*~~ ***or $5,000,000, whichever is less.***

2. In the case of a building ~~[that is part of a cooperative or]~~ that contains units ~~[having]~~ ***divided by*** horizontal boundaries described in the declaration, ***or vertical boundaries that comprise common walls between units,*** the insurance maintained under paragraph (a) of subsection 1, to the extent

reasonably available, must include the units, but need not include improvements and betterments installed by units' owners.

3. If the insurance described in subsections 1 and 2 is not reasonably available, the association promptly shall cause notice of that fact to be ~~[hand-delivered or sent prepaid by United States mail]~~ ***given*** to all units' owners. The declaration may require the association to carry any other insurance, and the association ~~[in any event]~~ may carry any other insurance it considers appropriate to protect the association or the units' owners.

4. An insurance policy issued to the association does not prevent a unit's owner from obtaining insurance for the unit's owner's own benefit.

Sec. 46. NRS 116.31133 is hereby amended to read as follows:

116.31133 1. Insurance policies carried pursuant to NRS 116.3113 must provide ~~[to the extent reasonably available]~~ that:

(a) Each unit's owner is an insured person under the policy with respect to liability arising out of the unit's owner's interest in the common elements or membership in the association;

(b) The insurer waives its right to subrogation under the policy against any unit's owner or member of his or her household;

(c) No act or omission by any unit's owner, unless acting within the scope of his or her authority on behalf of the association, ~~[will void]~~ ***voids*** the policy or ~~[be]~~ ***is*** a condition to recovery under the policy; and

(d) If, at the time of a loss under the policy, there is other insurance in the name of a unit's owner covering the same risk covered by the policy, the association's policy provides primary insurance.

2. Any loss covered by the property policy under subsections 1 and 2 of NRS 116.3113 must be adjusted with the association, but the proceeds for that loss are payable to any ***insurance*** trustee designated for that purpose, or otherwise to the association, and not to any holder of a security interest. The ***insurance*** trustee or the association shall hold any ***insurance*** proceeds in trust for the association, units' owners and lienholders as their interests may appear. Subject to ~~[the provisions of]~~ NRS 116.31135, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the association, units' owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the common-interest community is terminated.

3. An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit's owner or holder of a security interest. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the association ***, each unit's owner*** and ~~[to any person]~~ ***each holder of a security interest*** to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

Sec. 47. NRS 116.31135 is hereby amended to read as follows:

116.31135 1. Any portion of the common-interest community for which insurance is required under NRS 116.3113 which is damaged or destroyed must be repaired or replaced promptly by the association unless:

(a) The common-interest community is terminated, in which case NRS 116.2118, 116.21183 and 116.21185 apply;

(b) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

(c) Eighty percent of the units' owners, including every owner of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild.

~~[~~➥~~]~~ ***2.*** The cost of repair or replacement in excess of insurance proceeds ***, deductibles*** and reserves is a common expense.

~~[2.]~~ If the entire common-interest community is not repaired or replaced ~~[, the]~~ ***:***

(a) The insurance proceeds attributable to the damaged common elements ~~[,]~~ must be used to restore the damaged area to a condition compatible with the remainder of the common-interest community ***;*** ~~[,]~~ and ~~[except]~~

(b) Except to the extent that other persons will be distributees ~~[(subparagraph 2 of paragraph (l) of subsection 1 of NRS 116.2105):~~

~~(a)~~] ***:***

(1) The ***insurance*** proceeds attributable to units and limited common elements that are not rebuilt must be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lienholders, as their interests may appear; and

~~[(b)]~~ ***(2)*** The remainder of the proceeds must be distributed to all the units' owners or lienholders, as their interests may appear, as follows:

~~[(1)]~~ ***(I)*** In a condominium, in proportion to the interests of all the units in the common elements; and

~~[(2)]~~ ***(II)*** In a cooperative or planned community, in proportion to the liabilities of all the units for common expenses.

3. If the units' owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under subsection 1 of NRS 116.1107, and the association promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocations.

Sec. 48. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive ~~[:]~~ ***, or as otherwise provided in this chapter:***

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore are necessary. Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.

3. Any assessment for common expenses or installment thereof that is 60 days or more past due bears interest at a rate equal to 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 the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.

4. Except as otherwise provided in the governing documents:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense ~~[or portion thereof]~~ benefiting fewer than all of the units ~~[must]~~ ***or their owners may*** be assessed exclusively against the units ***or units' owners*** benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If ***damage to a unit or other part of the common-interest community, or if*** any ***other*** common expense is caused by the ***willful*** misconduct ***or gross negligence*** of any unit's owner, ***tenant or invitee of a unit's owner or tenant,*** the association may assess that expense exclusively against his or her unit ~~.~~ ***, even if the association maintains insurance with respect to that damage or common expense, unless the damage or other common expense is caused by a vehicle and is committed by a person who is delivering goods to, or performing services for, the unit's owner, tenant or invitee of the unit's owner or tenant.***

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 49. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a ~~*[statutory]*~~ lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against ~~*[attributable to]*~~ that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, ~~*[reasonable attorney's fees and costs,]*~~ any penalties, ~~*[other]*~~ fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 ~~*[, and any other sums due to the association under the declaration, this chapter, or as a result of an administrative, arbitration, mediation or judicial decision]*~~ are enforceable ~~*[in the same manner]*~~ as ~~*[unpaid]*~~ assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) **A** ~~*[Except as otherwise provided in subsection 3, a]*~~ first security interest on the unit recorded before the date on which the assessment sought

to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

➥ The

~~[3. A]~~ lien ~~[under this section]~~ is also prior to all security interests described in paragraph (b) ~~[of subsection 2]~~ to the extent of any charges incurred by the association on a unit pursuant to NRS 116.310312 and to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) ~~[of subsection 2]~~ must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. ~~[4.]~~ Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4. ~~[5.]~~ Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. ~~[6.]~~ A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

6. ~~[7.]~~ This section does not prohibit actions ~~[against units' owners]~~ to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

7. ~~[8.]~~ A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. ~~[9.]~~ The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be

furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

9. ~~[10.]~~ In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

~~[11.]~~ ***10. In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.***

Sec. 50. NRS 116.3117 is hereby amended to read as follows:

116.3117 1. In a condominium or planned community:

(a) Except as otherwise provided in paragraph (b), a judgment for money against the association, if a copy of the docket or an abstract or copy of the judgment is recorded, is not a lien on the common elements, but is a lien in favor of the judgment lienholder against all of ***the other real property of the association and all of*** the units in the common-interest community at the time the judgment was entered. No other property of a unit's owner is subject to the claims of creditors of the association.

(b) If the association has granted a security interest in the common elements to a creditor of the association pursuant to NRS 116.3112, the holder of that security interest shall exercise its right against the common elements before its judgment lien on any unit may be enforced.

(c) Whether perfected before or after the creation of the common-interest community, if a lien, other than a deed of trust or mortgage, including a judgment lien or lien attributable to work performed or materials supplied before creation of the common-interest community, becomes effective against two or more units, the owner of an affected unit may pay to the lienholder the amount of the lien attributable to his or her unit, and the lienholder, upon receipt of payment, promptly shall deliver a release of the lien covering that unit. The amount of the payment must be proportionate to the ratio which that owner's liability for common expenses bears to the

liabilities for common expenses of all owners whose units are subject to the lien. After payment, the association may not assess or have a lien against that owner's unit for any portion of the common expenses incurred in connection with that lien.

(d) A judgment against the association must be indexed in the name of the common-interest community and the association and, when so indexed, is notice of the lien against the units.

2. In a cooperative:

(a) If the association receives notice of an impending foreclosure on all or any portion of the association's real estate, the association shall promptly transmit a copy of that notice to each owner of a unit located within the real estate to be foreclosed. Failure of the association to transmit the notice does not affect the validity of the foreclosure.

(b) Whether ~~[or not]~~ an owner's unit is subject to the claims of the association's creditors, no other property of an owner is subject to those claims.

Sec. 51. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in ~~[this]~~ subsection ~~*[3,]*~~ ***4,*** the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation ~~[, all]~~ ***:***

(a) The financial statement of the association;

(b) The budgets of the association required to be prepared pursuant to NRS 116.31151;

(c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152; and

(d) All contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party.

2. The executive board shall provide a copy of any of the records described in paragraphs (a), (b) and (c) of subsection 1 to a unit's owner or the Ombudsman within ~~*[14]*~~ 21 days after receiving a written request therefor. ~~*[The]*~~ Such records must be provided in electronic format at no charge to the unit's owner or, if the association is unable to provide the records in electronic format, the executive board may charge a fee to cover the actual costs of preparing a copy, but the fee may not exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

3. If the executive board fails to provide a copy of any of the records pursuant to subsection 2 within 21 days, the executive board must pay a penalty of $25 for each day the executive board fails to provide the records.

4. The provisions of ~~[this]~~ subsection ***1*** do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents, except for those records described in subsection ~~[2.]~~ ~~*[4.]*~~ ***5.*** and

(c) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board.

~~[2.]~~ ~~*[4.]*~~ ***5.*** The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

~~[3.]~~ ~~*[5.]*~~ ***6.*** If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If the Ombudsman is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

~~[4.]~~ ~~*[6.]*~~ ***7.*** The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

~~[5.]~~ ~~*[7.]*~~ ***8.*** The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of ~~[this section.~~

~~6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.~~

~~7. If an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.~~

~~8. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 6 or 7.~~

~~9. As used in this section:~~

~~(a) "Issue of official interest" includes, without limitation:~~

~~(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and~~

~~(2) The enactment or adoption of rules or regulations that will affect a common-interest community.~~

~~(b) "Official publication" means:~~

~~(1) An official website;~~

~~(2) An official newsletter or other similar publication that is circulated to each unit's owner; or~~

~~(3) An official bulletin board that is available to each unit's owner,~~

~~➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.]~~ ***subsection 1.***

Sec. 52. NRS 116.4101 is hereby amended to read as follows:

116.4101 1. NRS 116.4101 to 116.412, inclusive, apply to all units subject to this chapter, except as otherwise provided in ~~[this section]~~ ***subsection 2*** or as modified or waived by agreement of purchasers of units in a common-interest community in which all units are restricted to nonresidential use.

2. Neither a public offering statement nor a certificate of resale need be prepared or delivered in the case of a:

(a) Gratuitous disposition of a unit;

(b) Disposition pursuant to court order;

(c) Disposition by a government or governmental agency;

(d) Disposition by foreclosure or deed in lieu of foreclosure;

(e) Disposition to a dealer;

(f) Disposition that may be cancelled at any time and for any reason by the purchaser without penalty; ~~[or]~~

(g) Disposition of a unit in a planned community which contains no more than 12 units if:

(1) The declarant reasonably believes in good faith that the maximum assessment stated in the declaration will be sufficient to pay the expenses of the planned community; and

(2) The declaration cannot be amended to increase the assessment during the period of the declarant's control without the consent of all units' owners ~~[~~.

~~3. Except as otherwise provided in subsection 2, the provisions of NRS 116.4101 to 116.412, inclusive, do not apply to a planned community described in NRS 116.1203.]~~ ***; or***

(h) Disposition of a unit restricted to nonresidential purposes.

Sec. 53. NRS 116.4103 is hereby amended to read as follows:

116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:

(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is ~~[either]~~ a condominium, cooperative or planned community.

(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.

(c) The estimated number of units in the common-interest community.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat is not required.

(e) ~~[A current year-to-date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:~~

~~(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to NRS 116.3115; and~~

~~(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.]~~ ***The financial information required by subsection 2.***

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget ~~[.]~~ ***that***

the declarant provides, or expenses which the declarant pays and which the declarant expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit.

(g) Any initial or special fee due from the purchaser ***or seller*** at closing, ***including, without limitation, any transfer fees, whether payable to the association, the community manager of the association or any third party,*** together with a description of the purpose and method of calculating the fee.

(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(i) A statement that unless the purchaser or his or her agent has personally inspected the unit, the purchaser may cancel, by written notice, his or her contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(j) A statement of any unsatisfied ~~[judgments]~~ ***judgment*** or pending ~~[suits]~~ ***action*** against the association, and the status of any pending ~~[suits]~~ ***action*** material to the common-interest community of which a declarant has actual knowledge.

(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.

(l) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

(m) ***Any restraints on alienation of any portion of the common-interest community and any restrictions:***

(1) On the leasing or renting of units; and

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on the sale or condemnation of or casualty loss to the unit or to the common-interest community, or on termination of the common-interest community.

(n) A description of any arrangement described in NRS 116.1209 binding the association.

(o) The information statement set forth in NRS 116.41095.

2. ***The public offering statement must contain any current balance sheet and a projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget and a statement of the***

budget's assumptions concerning occupancy and inflation factors. The budget must include:

(a) A statement of the amount included in the budget as a reserve for repairs, replacement and restoration pursuant to NRS 116.3115;

(b) A statement of any other reserves;

(c) The projected common expense assessment by category of expenditures for the association; and

(d) The projected monthly common expense assessment for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.

3. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 54. NRS 116.41035 is hereby amended to read as follows:

116.41035 If a common-interest community composed of not more than 12 units is not subject to any developmental rights and no power is reserved to a declarant to make the common-interest community part of a larger common-interest community, group of common-interest communities or other real estate, a public offering statement may ~~[but need not]~~ include the information otherwise required by paragraphs (h) and (k) of subsection 1 of NRS 116.4103.

Sec. 55. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his or her authorized agent shall, at the expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152;

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to

the common-interest community of which the unit's owner has actual knowledge;

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit; and

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, the purchaser must hand deliver the notice of cancellation to the unit's owner or his or her authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his or her authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his or her authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his or her authorized agent, the association shall furnish all of the following to the unit's owner or his or her authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b), (d) ***,*** ~~[and]~~ (e) ***and (f)*** of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his or her authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The ***other documents furnished pursuant to subsection 3 must be provided in electronic format at no charge to the unit's owner or, if the association is unable to provide such documents in electronic format, the*** association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page ~~[,]~~ ***for the first 10 pages, and 10 cents per page thereafter,*** to cover the cost of copying ***.*** ~~[the other documents furnished pursuant to subsection 3.]~~

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the ~~[seller]~~ ***purchaser*** is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his or her authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his or her authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

Sec. 56. **(Deleted by amendment.)**

Sec. 57. NRS 116.4114 is hereby amended to read as follows:

116.4114 1. A declarant and any dealer warrant that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.

2. A declarant and any dealer impliedly warrant that a unit and the common elements in the common-interest community are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by ~~[him or her,]~~ ***a declarant or dealer,*** or made by any person before the creation of the common-interest community, will be:

(a) Free from defective materials; and

(b) Constructed in accordance with applicable law, according to sound standards of engineering and construction, and in a workmanlike manner.

3. ~~[In addition, a]~~ ***A*** declarant and any dealer warrant to a purchaser of a unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

4. Warranties imposed by this section may be excluded or modified as specified in NRS 116.4115.

5. For purposes of this section, improvements made or contracted for by an affiliate of a declarant are made or contracted for by the declarant.

6. Any conveyance of a unit transfers to the purchaser all of the declarant's implied warranties of quality.

Sec. 58. NRS 116.4116 is hereby amended to read as follows:

116.4116 1. ~~[A]~~ ***Unless a period of limitation is tolled under NRS 116.3111 or affected by subsection 4, a*** judicial proceeding for breach of any obligation arising under NRS 116.4113 or 116.4114 must be commenced within 6 years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than 2 years. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by a separate instrument executed by the purchaser.

2. Subject to subsection 3, a cause of action for breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach, accrues:

(a) As to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and

(b) As to each common element, at the time the common element is completed or, if later, as to:

(1) A common element that may be added to the common-interest community or portion thereof, at the time the first unit therein is conveyed to a bona fide purchaser; or

(2) A common element within any other portion of the common-interest community, at the time the first unit is conveyed to a purchaser in good faith.

3. If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the common-interest community, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

4. During the period of declarant control, the association may authorize an independent committee of the executive board to evaluate and enforce any warranty claims involving the common elements, and to ~~*[compromise]*~~ ***address those claims. Only members of the executive board elected by units' owners other than the declarant and other persons appointed by those independent members may serve on the committee, and the committee's decision must be free of any control by the declarant or any member of the executive board or officer appointed by the declarant. All costs reasonably incurred by the committee, including attorney's fees, are common expenses, and must be added to the budget annually adopted by the association in accordance with the requirements of NRS 116.31151. If the committee is so created, the period of limitation for a warranty claim***

considered by the committee begins to run from the date of the first meeting of the committee.

Sec. 59. NRS 116.4117 is hereby amended to read as follows:

116.4117 1. Subject to the requirements set forth in subsection 2, if a declarant, community manager or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages or other appropriate relief for a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

(1) A declarant;

(2) A community manager; or

(3) A unit's owner.

(b) By a unit's owner against:

(1) The association;

(2) A declarant; or

(3) Another unit's owner of the association.

(c) By a class of units' owners constituting at least 10 percent of the total number of voting members of the association against a community manager.

3. ***Members of the executive board are not personally liable to the victims of crimes occurring on the property.***

4. Except as otherwise provided in ~~[~~NRS 116.31036,~~]~~ ***subsection 5,*** punitive damages may be awarded for a willful and material failure to comply with any provision of this chapter if the failure is established by clear and convincing evidence.

~~[~~4.~~]~~ ***5. Punitive damages may not be awarded against:***

(a) The association;

(b) The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or

(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.

6. The court may award reasonable attorney's fees to the prevailing party.

~~[~~5.~~]~~ ***7.*** The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

8. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 59.5. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. The regulations must include, without limitation, provisions that:

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association or its agent; and

(II) Has management experience determined to be sufficient by the executive board of the association or its agent making the offer in sub-subparagraph (I). The executive board or its agent must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association, or its agent, which offered the person employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and

(II) Has not been the subject of any disciplinary action pursuant to this chapter or chapter 116 of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2) and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

(b) ~~[Must require an applicant or the employer of the applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control. In adopting the regulations establishing the form and sliding scale for the amount of a bond required to be posted pursuant to this paragraph, the Commission shall consider the availability and cost of such bonds.~~

~~(c)]~~ May require applicants to pass an examination in order to obtain a certificate other than a temporary certificate described in paragraph (a). If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

~~[(d)]~~ ***(c)*** Must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

~~[(e)]~~ ***(d)*** May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

~~[(f)]~~ ***(e)*** Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~[(g)]~~ ***(f)*** Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:

(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and

(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.

Sec. 60. NRS 116.31177 is hereby repealed.

Sec. 61. This act becomes effective on January 1, 2012.

TEXT OF REPEALED SECTION

116.31177 Maintenance and availability of certain financial records of association; provision of copies to units' owners and Ombudsman.

1. The executive board of an association shall maintain and make available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties:

(a) The financial statement of the association;

(b) The budgets of the association required to be prepared pursuant to NRS 116.31151; and

(c) The study of the reserves of the association required to be conducted pursuant to NRS 116.31152.

2. The executive board shall provide a copy of any of the records required to be maintained pursuant to subsection 1 to a unit's owner or the Ombudsman within 14 days after receiving a written request therefor. The executive board may charge a fee to cover the actual costs of preparing a copy, but not to exceed 25 cents per page.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 204.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 254.

The following Assembly amendment was read:

Amendment No. 742.

"SUMMARY—Revises provisions relating to common-interest communities. (BDR 10-264)"

"AN ACT relating to common-interest communities; revising procedures for alternative dispute resolution of certain claims relating to common-interest communities; revising provisions governing the review of certain books, papers and records of an association; revising provisions governing the confidentiality of certain documents and information obtained by the Real Estate Division of the Department of Business and Industry; revising the penalties for filing frivolous, false or fraudulent claims; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1, 2 and 6-21 of this bill revise the procedures for: (1) the alternative dispute resolution of civil actions which relate to any governing documents or covenants, conditions or restrictions applicable to residential property; and (2) administrative proceedings which relate to a violation of existing law governing common-interest communities and condominium hotels. **Sections 10 and 18** require a person to include in a written claim filed with the Real Estate Division of the Department of Business and Industry all claims which: (1) allege a violation of the governing documents or covenants, conditions or restrictions; and (2) allege a violation of existing law governing common-interest communities and condominium hotels. Under **sections 1 and 15**, the Ombudsman for Owners in Common-Interest

Communities and Condominium Hotels must refer all claims to a mediator, and the Commission for Common-Interest Communities and Condominium Hotels shall adopt regulations establishing the maximum amount **, not to exceed $500,** of the fees and costs of the mediation and governing the manner in which such fees and costs are paid. If the mediation does not result in a settlement of the claim, **sections 1 and 15** require the mediator to refer the claim: (1) to arbitration if the claim relates to the governing documents or covenants, conditions or restrictions applicable to the property; and (2) to the Division if the claim relates to a violation of a provision of existing law governing common-interest communities. If the claim is referred to an arbitrator, the arbitration is conducted in accordance with: (1) the rules of the American Arbitration Association or other comparable rules for speedy arbitration approved by the Division or the Commission; and (2) existing law governing the arbitration of such claims. If the claim is referred to the Division, **section 11** requires the Division to determine whether good cause exists to proceed with a hearing on the alleged violation and, if good cause exists, to refer the claim to the Ombudsman or file a complaint with the Commission. If the claim is referred to the Ombudsman, the parties do not resolve the alleged violation with the assistance of the Ombudsman and the Division, after investigation, makes certain findings, the Administrator of the Division must file a formal complaint with the Commission.

Sections 5, 10 and 18 of this bill revise the penalties which may be imposed against a person who files with the Division a frivolous, false or fraudulent claim **or response** and provide for penalties against a person who files a claim with the Division for the purpose of delay or harassment.

Existing law authorizes an association of a common-interest community to foreclose a lien by sale of a unit and prescribes the procedures for such a foreclosure. (NRS 116.31162-116.31168) Section 3.5 of this bill revises provisions governing foreclosures by prohibiting an association from foreclosing a lien by sale during the pendency of any mediation or arbitration if the issue in dispute is the basis for the foreclosure.

Section 4 of this bill provides that, unless and until a complaint is filed by the Real Estate Administrator, the executive board is not required to make available certain confidential documents and information relating to certain claims filed with the Division.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Not later than 5 business days after receipt of a written response filed with the Division pursuant to subsection 5 of NRS 116.760, the Division shall provide:

(a) To the claimant, a copy of the response.

(b) To the parties, the list of mediators maintained by the Division pursuant to NRS 38.340.

2. The parties may select a mediator from the list of mediators provided pursuant to subsection 1. If the parties fail to agree upon a mediator, the Ombudsman shall appoint a mediator from the list of mediators maintained by the Division ~~.~~ ***within 5 business days. Any mediator selected by the parties or appointed by the Ombudsman must be available within the geographic area*** ~~.~~ ***, unless such a requirement is determined by the parties or the Ombudsman to be unreasonable. Upon appointing a mediator, the Ombudsman shall provide the name of the mediator to the parties.***

3. Not later than 5 business days after his or her selection or appointment pursuant to subsection 2, the mediator shall provide to the parties an informational statement relating to a mediation conducted pursuant to this section. The written informational statement:

(a) Must be in a form approved by the Commission;

(b) Must be written in plain English;

(c) Must explain the procedures and applicable law relating to a mediation conducted pursuant to this section, including, without limitation, the confidentiality of the mediation, the nature of the mediation process, the enforceability of a settlement obtained through mediation and the procedures for resolution of the claim if the parties fail to reach a settlement through mediation; and

(d) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement and agrees to comply with the provisions of law governing the confidentiality of the mediation, which must be returned to the mediator by the party not later than 10 days after receipt of the informational statement.

4. Unless otherwise provided by an agreement of the parties, a mediation conducted pursuant to this section must be completed within 60 days after the selection or appointment of the mediator.

5. Upon the conclusion of the settlement discussions, any agreement obtained through mediation conducted pursuant to this section must be reduced to writing by the mediator and signed by the parties. The mediator shall provide a copy of the written agreement signed by the parties to each party and to the Division. Any written agreement received by the Division pursuant to this subsection is confidential. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section and subject to any regulations adopted by the Commission, the parties are responsible for the payment of all fees and costs of mediation in the manner provided by the mediator. The Commission shall adopt regulations governing the maximum amount , not to exceed $500 per mediation, that may be charged for fees and costs of mediation and the manner in which such fees and costs of mediation are paid.

6. The Division may provide for the payment of the fees of a mediator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission approves the payment; and

(b) There is money available in the Account for this purpose.

7. If either party fails to participate in the mediation or if, within 60 days after the selection or appointment of the mediator or any longer period agreed to by the parties, the parties are unable with the assistance of the mediator to resolve any of the disputes included in the written claim, the mediator shall, not later than 5 business days after the conclusion of the mediation:

(a) Certify to the Ombudsman that the mediation was unsuccessful; and

(b) Recommend that the claim be referred:

(1) To arbitration pursuant to NRS 38.330, if the claim relates to any governing documents or covenants, conditions or restrictions applicable to the real estate which is the subject of the claim; or

(2) To the Division for proceedings pursuant to this section and NRS 116.745 to 116.795, inclusive, if the claim relates to an alleged violation of a provision of this chapter or any regulation adopted pursuant thereto.

➥ The mediator may not provide any other information relating to the mediation to the Division, and the Division, the Commission and a hearing panel may not request from the mediator any other information relating to the mediation.

8. If any party fails to participate in the mediation in good faith, the party is liable for all fees and costs associated with the mediation.

9. No admission, representation or statement made during a mediation conducted pursuant to this section, not otherwise discoverable or obtainable, is admissible as evidence or subject to discovery in a civil action or administrative proceeding.

~~*[9.]*~~ ***10. As used in this section, "geographic area" has the meaning ascribed to it in NRS 38.330.***

Sec. 2. NRS 116.085 is hereby amended to read as follows:

116.085 "Respondent" means a person against whom:

1. ~~[An affidavit]~~ ***A claim*** has been filed pursuant to NRS ***38.320 or*** 116.760.

2. A complaint has been filed pursuant to NRS 116.765.

Sec. 3. (Deleted by amendment.)

Sec. 3.5. **NRS 116.31162 is hereby amended to read as follows:**

116.31162 1. Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162

to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

(c) The unit's 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 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

➥ whichever date occurs later.

4. The association may not foreclose a lien by sale ~~[based]~~ ***:***

(a) Based on a fine or penalty for a violation of the governing documents of the association unless:

~~[(a)]~~ ***(1)*** The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

~~[(b)]~~ ***(2)*** The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

(b) During the pendency of any mediation or arbitration conducted pursuant to NRS 38.300 to 38.360, inclusive, and section 15 of this act and 116.745 to 116.795, inclusive, and section 1 of this act, if the issue in dispute is the basis for instituting the foreclosure.

Sec. 4. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents, except for those records described in subsection 2; ~~[and]~~

(c) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board ~~[.]~~ ***; and***

(d) Except as otherwise provided by law, any document or information which is:

(1) Submitted to the Division in response to a claim filed with the Division pursuant to NRS 38.320 or 116.760;

(2) Received from the Division as a result of the filing of a claim pursuant to NRS 38.320 or 116.760 or an investigation of that claim; or

(3) Otherwise required to be kept confidential by the Division pursuant to subsection 1 of NRS 116.757,

➥ unless and until the Administrator files a formal complaint with the Commission.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If the Ombudsman is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. If an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

8. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 6 or 7.

9. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 5. NRS 116.675 is hereby amended to read as follows:

116.675 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chair of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

5. If the Commission finds that an appeal from a final order of a hearing panel is filed in bad faith or without reasonable cause for the purpose of delay or harassment, the Commission may impose any of the sanctions set forth in subsection ~~*[8]*~~ ***9 of NRS 116.760 against the person who filed the appeal.***

Sec. 6. NRS 116.745 is hereby amended to read as follows:

116.745 As used in NRS 116.745 to 116.795, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, "violation" means a violation of any provision of this chapter, any regulation adopted pursuant thereto or any order of the Commission or a hearing panel.

Sec. 7. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, ***and section 1 of this act,*** the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

(a) Any association and any officer, employee or agent of an association.

(b) Any member of an executive board.

(c) Any community manager who holds a certificate and any other community manager.

(d) Any person who is registered as a reserve study specialist, or who conducts a study of reserves, pursuant to chapter 116A of NRS.

(e) Any declarant or affiliate of a declarant.

(f) Any unit's owner.

(g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

(a) Currently holds his or her office, employment, agency or position or who held the office, employment, agency or position at the commencement of proceedings against him or her.

(b) Resigns his or her office, employment, agency or position:

(1) After the commencement of proceedings against him or her; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 8. NRS 116.755 is hereby amended to read as follows:

116.755 1. The rights, remedies and penalties provided by NRS 116.745 to 116.795, inclusive, ***and section 1 of this act*** are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity.

2. If the Commission, a hearing panel or another agency or officer elects to take a particular action or pursue a particular remedy or penalty authorized by NRS 116.745 to 116.795, inclusive, ***and section 1 of this act*** or another specific statute, that election is not exclusive and does not preclude the Commission, the hearing panel or another agency or officer from taking any other actions or pursuing any other remedies or penalties authorized by NRS 116.745 to 116.795, inclusive, ***and section 1 of this act*** or another specific statute.

3. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, ***and section 1 of this act,*** the Commission or a hearing panel shall not intervene in any internal activities of an association except to the extent necessary to prevent or remedy a violation.

Sec. 9. NRS 116.757 is hereby amended to read as follows:

116.757 1. Except as otherwise provided in this section and NRS 239.0115, a ~~[written affidavit]~~ ***claim and a response*** filed with the Division pursuant to NRS ***38.320 or*** 116.760, all documents and other information filed with the ~~[written affidavit]~~ ***claim or response*** and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission are confidential. ~~[The]~~ ***Except as otherwise provided in this section, the*** Division shall not disclose any information that is confidential pursuant to this subsection, in whole or in part, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection ~~[2]~~ ***3*** and the disclosure is required pursuant to subsection ~~[2.]~~ ***3.***

2. ***The Division may disclose a claim and response filed with the Division pursuant to NRS 38.320 or 116.760 and any documents or other information filed with the claim or response to:***

(a) The parties to the claim, as required by NRS 38.320 or 116.760 or section 1 or 15 of this act;

(b) The mediator selected or appointed pursuant to section 1 or 15 of this act; and

(c) An arbitrator selected or appointed pursuant to NRS 38.330.

3. A formal complaint filed by the Administrator with the Commission and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to NRS 116.745 to 116.795, inclusive, ***and section 1 of this act*** are public records.

Sec. 10. NRS 116.760 is hereby amended to read as follows:

116.760 1. Except as otherwise provided in this section, a person who is aggrieved by an alleged violation may, not later than 1 year after the person discovers or reasonably should have discovered the alleged violation, file with the Division a written ~~[affidavit that sets forth the facts constituting the alleged violation. The affidavit may allege any actual damages suffered by the aggrieved person as a result of the alleged violation.]~~ ***claim pursuant to this section.*** ~~*[A claim may not be filed pursuant to this section if:*~~

~~*(a) The claimant previously filed a claim with the Division; and*~~

~~*(b) At the time the claimant filed the previous claim, the claimant was aware or reasonably should have been aware of the facts and circumstances underlying the current claim.]*~~

2. An aggrieved person may not file ~~[such an affidavit]~~ ***a claim pursuant to this section*** unless ***all administrative procedures specified in the governing documents have been exhausted and*** the aggrieved person has provided the respondent by certified mail, return receipt requested, with written notice of the alleged violation set forth in the ~~[affidavit.]~~ ***claim.*** The notice must:

(a) Be mailed to the respondent's last known address.

(b) Specify, in reasonable detail, the alleged violation, any actual damages suffered by the aggrieved person as a result of the alleged violation, and any corrective action proposed by the aggrieved person.

3. A ~~[written affidavit]~~ ***claim*** filed with the Division pursuant to this section ***or NRS 38.320*** must be ~~[:~~

~~(a) On]~~ ***on*** a form ~~[prescribed]~~ ***approved*** by the ~~[Division.~~

~~(b) Be accompanied by evidence that:~~

~~(1)]~~ ***Commission and must include:***

(a) The complete names, addresses and telephone numbers of all parties to the claim.

(b) A statement of whether all administrative procedures specified in the governing documents have been exhausted.

(c) A specific statement of the nature of the claim, including, without limitation, a description, in reasonable detail, of:

(1) The alleged violation of the provisions of this chapter or any regulation adopted pursuant thereto or an alleged violation of the governing documents;

(2) Any alleged damages suffered by the aggrieved person as a result of the actions underlying the claim; and

(3) Any corrective action proposed by the claimant.

(d) A statement that:

(1) The claimant has given the respondent written notice of the claim;

(2) The respondent has been given a reasonable opportunity after receiving the written notice to correct the alleged violation ~~[;]~~ ***of the provisions of this chapter or any regulation adopted pursuant thereto or an alleged violation of the governing documents;*** and

~~[(2)]~~ ***(3)*** Reasonable efforts to resolve the alleged violation have failed.

(e) All claims of which the claimant is aware or reasonably should be aware, including, without limitation, any claims that relate to a violation of the governing documents applicable to the real estate which is the subject of the claim.

(f) Such other information as the Division may require by regulation.

4. ~~[The]~~ ***Upon the filing of a claim that satisfies the requirements of this section, the Division shall serve a copy of the claim on the respondent by certified mail, return receipt requested, to his or her last known address.***

5. Upon being served pursuant to subsection 4, the person upon whom a copy of the claim was served shall, not later than 30 days after the date of service, file a written response with the Division. The response must:

(a) Contain an admission or a denial of the allegations contained in the claim and any defenses upon which the respondent will rely; and

(b) Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested.

6. Except for good cause shown, if a person fails to file a written response pursuant to subsection 5, the claim may be deemed substantiated upon the filing of an affidavit with the Division.

7. The Division may consolidate multiple claims involving the same parties for the purposes of a mediation conducted pursuant to section 1 of this act.

[7.] 8. By filing a claim or response with the Division pursuant to this section, a person is certifying that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances:

(a) The claim or response is not being filed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of proceedings before the Division or the Commission; and

(b) The allegations and other factual contentions in the claim or response have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

[8.] 9. If a person files a claim or response pursuant to this section or NRS 38.320 which the person knows is false or fraudulent or if a person files such a claim or response in bad faith or without reasonable cause for the purpose of harassment, the Commission or a hearing panel may [impose] ***:***

(a) Impose an administrative fine of not more than $1,000 against [any] ***the*** person who [knowingly files a false or fraudulent affidavit with the Division.] ***filed the claim [;] or response;***

(b) Issue an order directing the person who filed the claim or response to pay the costs incurred by the Division as a result of that filing, including, without limitation, the costs incurred by the Division in investigating the allegations in the claim [;] or response; or

(c) Take any combination of the actions set forth in paragraphs (a) [or] and (b).

[9. If a person files a frivolous claim with the Division pursuant to this section or NRS 38.320, the Commission may issue an order directing the person who filed the frivolous claim to pay the costs incurred by the Division as a result of that filing, including, without limitation, the costs incurred by the Division in investigating the allegations in the claim.]

Sec. 11. NRS 116.765 is hereby amended to read as follows:

116.765 1. Upon [receipt of an affidavit that complies with the provisions of NRS 116.760,] ***referral of a claim to the Division pursuant to subsection 7 of section 1 of this act or subsection 7 of section 15 of this act,*** the Division shall [refer] ***determine whether good cause exists to proceed with a hearing on the alleged violation. If, after investigating the alleged violation, the Division determines that the allegations in the claim are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall:***

(a) File a formal complaint with the Commission, with the Division as complainant, and schedule a hearing on the complaint before the Commission or a hearing panel; or

(b) Refer the ~~[~~affidavit~~]~~ ***claim*** to the Ombudsman.

2. ~~[~~The~~]~~ ***If the Administrator refers a claim to the Ombudsman pursuant to subsection 1, the*** Ombudsman shall give such guidance to the parties as the Ombudsman deems necessary to assist the parties to resolve the alleged violation. ~~[~~

~~3.]~~ If the parties are unable to resolve the alleged violation with the assistance of the Ombudsman, the Ombudsman shall provide to the Division a report concerning the alleged violation and ***, except as otherwise provided in subsection 4,*** any information collected by the Ombudsman during his or her efforts to assist the parties to resolve the alleged violation.

~~[~~4.~~]~~ ***3.*** Upon receipt of the report from the Ombudsman ~~[~~,~~]~~ ***pursuant to subsection 2,*** the Division shall conduct an investigation to determine whether good cause exists to proceed with a hearing on the alleged violation. ~~[~~

~~5.]~~ If, after investigating the alleged violation, the Division determines that the allegations in the ~~[~~affidavit~~]~~ ***claim*** are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall file a formal complaint with the Commission ***, with the Division as complainant,*** and schedule a hearing on the complaint before the Commission or a hearing panel.

4. No admission, representation or statement made in the course of the Ombudsman's efforts to assist the parties to resolve the alleged violation, not otherwise discoverable or obtainable, is admissible as evidence or subject to discovery in a civil action or administrative proceeding.

Sec. 12. NRS 116.770 is hereby amended to read as follows:

116.770 1. Except as otherwise provided in subsection 2, if the Administrator files a formal complaint with the Commission, the Commission or a hearing panel shall hold a hearing on the complaint not later than 90 days after the date that the complaint is filed.

2. The Commission or the hearing panel may continue the hearing upon its own motion or upon the written request of a party to the complaint, for good cause shown, including, without limitation, the existence of proceedings for mediation or arbitration or a civil action involving the facts that constitute the basis of the complaint.

3. The Division shall give the respondent ***and, if the Division is not a party to the hearing, the claimant*** written notice of the date, time and place of the hearing ~~[~~on the complaint~~]~~ at least 30 days before the date of the hearing. The notice must be:

(a) Delivered personally to the ***claimant and*** respondent or mailed to the ***claimant and*** respondent by certified mail, return receipt requested, to ~~[~~his or her~~]~~ ***their*** last known ~~[~~address.~~]~~ ***addresses.***

(b) Accompanied by:

(1) A copy of the complaint; and

(2) Copies of all communications, reports, affidavits and depositions in the possession of the Division that are relevant to the complaint.

4. At any hearing ~~[on the complaint,]~~ ***held pursuant to this section,*** the Division may not present evidence that was obtained after the notice was given to the respondent pursuant to this section, unless the Division proves to the satisfaction of the Commission or the hearing panel that:

(a) The evidence was not available, after diligent investigation by the Division, before such notice was given to the respondent; and

(b) The evidence was given or communicated to the respondent immediately after it was obtained by the Division.

5. ~~[The]~~ ***If the Administrator files a formal complaint, the*** respondent must file an answer not later than 30 days after the date that notice of the complaint is delivered or mailed by the Division. The answer must:

(a) Contain an admission or a denial of the allegations contained in the complaint and any defenses upon which the respondent will rely; and

(b) Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested.

6. If the ***Administrator files a formal complaint and the*** respondent does not file an answer within the time required by subsection 5, the Division may, after giving the respondent written notice of the default, request the Commission or the hearing panel to enter a finding of default against the respondent. The notice of the default must be delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his or her last known address.

Sec. 13. NRS 116.775 is hereby amended to read as follows:

116.775 ~~[Any]~~ ***If the Administrator files a formal complaint with the Commission, any*** party to the complaint may be represented by an attorney at any hearing on the complaint.

Sec. 14. NRS 116.780 is hereby amended to read as follows:

116.780 1. After conducting its hearings on ~~[the]~~ ***a*** complaint ~~[,]~~ ***filed by the Administrator or a claim referred by the Administrator,*** the Commission or the hearing panel shall render a final decision on the merits of the complaint ***or claim*** not later than 20 days after the date of the final hearing.

2. The Commission or the hearing panel shall notify all parties to the complaint ***or claim*** of its decision in writing by certified mail, return receipt requested, not later than 60 days after the date of the final hearing. The written decision must include findings of fact and conclusions of law.

Sec. 15. Chapter 38 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Not later than 5 business days after receipt of a written response filed with the Division pursuant to subsection 6 of NRS 38.320, the Division shall provide:

(a) To the claimant, a copy of the response.

(b) To the parties, the list of mediators maintained by the Division pursuant to NRS 38.340.

2. The parties may select a mediator from the list of mediators provided pursuant to subsection 1. If the parties fail to agree upon a mediator, the Ombudsman shall appoint a mediator from the list of mediators maintained by the Division ~~[.]~~ ***within 5 business days. Any mediator selected by the parties or appointed by the Ombudsman must be available within the geographic area*** ~~[.]~~ ***, unless such a requirement is determined by the parties or the Ombudsman to be unreasonable. Upon appointing a mediator, the Ombudsman shall provide the name of the mediator to the parties.***

3. Not later than 5 business days after his or her selection or appointment pursuant to subsection 2, the mediator shall provide to the parties an informational statement relating to a mediation conducted pursuant to this section. The informational statement:

(a) Must be in a form approved by the Commission;

(b) Must be written in plain English;

(c) Must explain the procedures and applicable law relating to a mediation conducted pursuant to this section, including, without limitation, the confidentiality of the mediation, the nature of the mediation process, the enforceability of a settlement obtained through mediation and the procedures for resolution of the claim if the parties fail to reach a settlement through mediation; and

(d) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement and agrees to comply with the provisions of law governing the confidentiality of the mediation, which must be returned to the mediator by the party not later than 10 days after receipt of the informational statement.

4. Unless otherwise provided by an agreement of the parties, a mediation conducted pursuant to this section must be completed within 60 days after the selection or appointment of the mediator.

5. Upon the conclusion of the settlement discussions, any agreement obtained through mediation conducted pursuant to this section must be reduced to writing by the mediator and signed by the parties. The mediator shall provide a copy of the written agreement signed by the parties to each party and the Division. Any written agreement received by the Division pursuant to this subsection is confidential. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section and subject to any regulations adopted by the Commission, the parties are responsible for the payment of all fees and costs of mediation in the manner provided by the mediator. The Commission shall adopt regulations governing the maximum amount , not to exceed $500 per mediation, that may be charged for fees and costs of mediation and the manner in which such fees and costs of mediation are paid.

6. The Division may provide for the payment of the fees for a mediator selected or appointed pursuant to this section from the Account for

Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission approves the payment; and

(b) There is money available in the Account for this purpose.

7. If either party fails to participate in the mediation or if, within 60 days after the selection or appointment of the mediator or any longer period agreed to by the parties, the parties are unable with the assistance of the mediator to resolve any of the disputes included in the claim, the mediator shall, not later than 5 business days after the conclusion of the mediation:

(a) Certify to the Ombudsman that the mediation was unsuccessful; and

(b) Recommend that the claim be referred:

(1) To arbitration pursuant to NRS 38.330, if the claim relates to any governing documents or covenants, conditions or restrictions applicable to the real estate which is the subject of the claim; or

(2) To the Division for proceedings pursuant to NRS 116.745 to 116.795, inclusive, and section 1 of this act, if the claim relates to an alleged violation of a provision of chapter 116 of NRS or any regulation adopted pursuant thereto.

➥ The mediator may not provide any other information relating to the mediation to the Division, and the Division, the Commission and a hearing panel may not request from the mediator any other information relating to the mediation.

8. If either party fails to participate in the mediation in good faith, the party is liable for all fees and costs associated with the mediation.

9. No admission, representation or statement made during a mediation conducted pursuant to this section, not otherwise discoverable or obtainable, is admissible as evidence or subject to discovery in a civil action or administrative proceeding.

~~*[9.]*~~ ***10. As used in this section, "geographic area" has the meaning ascribed to in NRS 38.330.***

Sec. 16. NRS 38.300 is hereby amended to read as follows:

38.300 As used in NRS 38.300 to 38.360, inclusive, ***and section 15 of this act,*** unless the context otherwise requires:

1. ~~[~~"Assessments" means:

~~(a) Any charge which an association may impose against an owner of residential property pursuant to a declaration of covenants, conditions and restrictions, including any late charges, interest and costs of collecting the charges; and~~

~~(b) Any penalties, fines, fees and other charges which may be imposed by an association pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 or subsections 10, 11 and 12 of NRS 116B.420.~~

~~2.]~~ "Association" has the meaning ascribed to it in NRS 116.011 or 116B.030.

~~[3.]~~ ***2. "Charges" means:***

(a) Any charge which an association may impose against an owner of residential property pursuant to the governing documents of an association or a declaration of covenants, conditions and restrictions, including, without limitation, any assessments, penalties and fines and any late charges, interest and costs of collecting the charges; and

(b) Any penalties, fines, fees and other charges which may be imposed by an association pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102, subsection 4 of NRS 116.310312 or subsections 10, 11 and 12 of NRS 116B.420.

3. "Civil action" includes an action for money damages or equitable relief. The term does not include an action in equity ***solely*** for ***the purpose of seeking or obtaining interim or provisional relief of any kind, including, without limitation,*** injunctive relief ~~[in which]~~ ***, where*** there is an immediate threat of irreparable harm, or an action relating to the ***ownership of*** title to residential property. ***As used in this subsection, "irreparable harm" means harm or an injury for which the remedy of damages or monetary compensation is inadequate and does not exist solely because a claim involves real estate.***

4. ***"Commission" means the Commission for Common-Interest Communities and Condominium Hotels created by NRS 116.600.***

5. "Division" means the Real Estate Division of the Department of Business and Industry.

~~[5.]~~ ***6. "Governing documents" has the meaning ascribed to it in NRS 116.049 or 116B.110.***

7. "Residential property" includes, but is not limited to, real estate within a ~~[planned community]~~ ***common-interest community*** subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS. The term does not include commercial property if no portion thereof contains property which is used for residential purposes.

Sec. 17. NRS 38.310 is hereby amended to read as follows:

38.310 1. No civil action based upon a claim relating to:

(a) The interpretation, application ***,*** ~~[or]~~ enforcement ***or violation*** of any ***governing documents or*** covenants, conditions or restrictions applicable to residential property ~~[or any bylaws, rules or regulations adopted by an association;]~~ or

(b) The procedures used for increasing, decreasing or imposing ~~[additional assessments]~~ ***charges*** upon residential property,

➥ may be commenced in any court in this State unless the action has been submitted to mediation or arbitration pursuant to the provisions of NRS 38.300 to 38.360, inclusive, and ~~[, if the civil action concerns real estate within a planned community subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS, all administrative procedures specified in any covenants, conditions or restrictions applicable to the property or in any~~

~~bylaws, rules and regulations of an association have been exhausted.]~~ ***section 15 of this act.***

2. A court shall dismiss any civil action which is commenced in violation of the provisions of subsection 1.

Sec. 18. NRS 38.320 is hereby amended to read as follows:

38.320 1. Any civil action described in NRS 38.310 must be submitted for mediation or arbitration by filing a written claim with the Division ~~[. The claim]~~ ***pursuant to this section.*** ~~*[A claim may not be filed pursuant to this section if:*~~

~~*(a) The claimant previously filed a claim with the Division; and*~~

~~*(b) At the time the claimant filed the previous claim, the claimant was aware or reasonably should have been aware of the facts and circumstances underlying the current claim.]*~~

2. A claim may not be filed with the Division pursuant to this section unless:

(a) The claimant has provided the respondent by certified mail, return receipt requested, at his or her last known address, with written notice of the claim which specifies, in reasonable detail:

(1) The nature of the claim;

(2) Any actual damages suffered by the claimant as a result of the actions underlying the claim; and

(3) Any corrective action proposed by the claimant; and

(b) If the claim concerns real estate within a common-interest community subject to the provisions of chapter 116 of NRS or real estate within a condominium hotel subject to the provisions of chapter 116B of NRS, all administrative procedures specified in the governing documents applicable to the property or in any bylaws, rules and regulations of the association have been exhausted.

3. A claim filed with the Division pursuant to subsection 1 must be on a form approved by the Commission and must include:

(a) The complete names, addresses and telephone numbers of all parties to the claim ~~[,]~~.

(b) ***If the claim concerns real estate within a common-interest community subject to the provisions of chapter 116 of NRS, a statement of whether all administrative procedures specified in the governing documents have been exhausted.***

(c) A specific statement of the nature of the claim ~~[,]~~;

~~(c) A statement of whether the person wishes to have the claim submitted to a mediator or to an arbitrator and, if the person wishes to have the claim submitted to an arbitrator, whether the person agrees to binding arbitration; and~~

~~(d)]~~ ***, including, without limitation, a description, in reasonable detail, of:***

(1) Any alleged violation of the governing documents or conditions, covenants or restrictions applicable to the real estate that is the subject of the claim;

(2) Any alleged damages suffered by the claimant as a result of the actions underlying the claim; and

(3) Any corrective action proposed by the claimant.

(d) A statement that:

(1) The respondent has been given written notice of the claim;

(2) The respondent has been given a reasonable opportunity after receiving the written notice to correct or remedy the claim; and

(3) Reasonable efforts to resolve the claim have failed.

(e) All claims of which the claimant is aware or reasonably should be aware, including, without limitation, any claims which relate to a violation of a provision of chapter 116 of NRS, any regulation adopted pursuant thereto or an order of the Commission or a hearing panel issued pursuant thereto.

(f) Such other information as the Division may require ~~[~~.~~]~~

~~2.]~~ ***by regulation.***

4. The ~~[written]~~ claim must be accompanied by a reasonable fee as determined by the Division.

~~[3.]~~ ***5.*** Upon the filing of ~~[the written]~~ ***a*** claim ~~[~~,~~]~~ ***that satisfies the requirements of this section,*** the claimant shall serve a copy of the claim ~~[in the manner prescribed in Rule 4 of the Nevada Rules of Civil Procedure for the service of a summons and complaint.]~~ ***on the respondent by certified mail, return receipt requested, to his or her last known address.*** The claim so served must be accompanied by a statement ~~[explaining]~~ ***prepared by the Division which explains*** the procedures for mediation and arbitration set forth in NRS 38.300 to 38.360, inclusive ~~[~~.~~]~~

~~4.]~~ ***, and section 15 of this act.***

6. Upon being served pursuant to subsection ~~[3,]~~ ***5,*** the person upon whom a copy of the ~~[written]~~ claim was served shall, within 30 days after the date of service, file a written ~~[answer]~~ ***response*** with the Division. The ~~[answer]~~ ***response*** must ~~[be]~~ ***:***

(a) Contain an admission or a denial of the allegations contained in the claim and any defenses upon which the respondent will rely;

(b) Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested; and

(c) Be accompanied by a reasonable fee as determined by the Division.

7. Except for good cause shown, if a person fails to file a written response pursuant to subsection 6, the claim may be deemed substantiated upon the filing of an affidavit with the Division.

8. The Division may consolidate multiple claims involving the same parties for the purposes of a mediation conducted pursuant to section 15 of this act.

~~[8.]~~ ***9. By filing a claim or response with the Division pursuant to this section, a person is certifying that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances:***

(a) The claim or response is not being filed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of proceedings before the Division or the Commission; and

(b) The allegations and other factual contentions in the claim or response have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

~~[9.]~~ ***10. If a person files a claim or response pursuant to this section which the person knows is false or fraudulent or if a person files such a claim or response in bad faith or without reasonable cause for the purpose of harassment, or if the claim or response is frivolous, the Commission or a hearing panel may impose the penalties set forth in subsection*** ~~[8 or]~~ ***9 of NRS 116.760.*** ~~[, whichever is applicable.]~~

Sec. 19. NRS 38.330 is hereby amended to read as follows:

38.330 1. If ~~[all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation, the parties shall reduce the agreement to writing and shall select a mediator from the list of mediators maintained by the Division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the Division shall appoint a mediator from the list of mediators maintained by the Division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within 60 days after the parties agree to mediation. Any agreement obtained through mediation conducted pursuant to this section must, within 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy thereof provided to each party. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section, the parties are responsible for all costs of mediation conducted pursuant to this section.~~

~~2. If all the parties named in the claim do not agree to mediation, the parties shall select an arbitrator from]~~ ***, pursuant to subsection 7 of section 1 of this act or subsection 7 of section 15 of this act, a mediator recommends that a claim be referred to arbitration, the Division shall, not later than 10 days after receipt of the referral, provide to the parties*** the list of arbitrators maintained by the Division pursuant to NRS 38.340. ~~[Any arbitrator selected must be available within the geographic area.]~~ ***The parties may select an arbitrator from that list.*** If the parties fail to agree upon an arbitrator, the Division shall appoint an arbitrator from the list maintained by the Division. Any arbitrator ***selected by the parties or*** appointed ***by the Division*** must be available within the geographic area. Upon appointing an arbitrator, the Division shall provide the name of the arbitrator to each party.

2. An arbitrator ***selected or appointed pursuant to subsection 1*** shall, not later than 5 days after the arbitrator's selection or appointment ***,*** ~~[~~pursuant to this subsection,~~]~~ provide to the parties an informational statement relating to the arbitration of a claim pursuant to this section. The ~~[~~written~~]~~ informational statement:

(a) ***Must be in a form approved by the Commission;***

(b) Must be written in plain English;

~~[~~(b)~~]~~ ***(c)*** Must explain the procedures and applicable law relating to the arbitration of a claim conducted pursuant to this section, including, without limitation, the procedures, timelines and applicable law relating to confirmation of an award pursuant to NRS 38.239, vacation of an award pursuant to NRS 38.241, judgment on an award pursuant to NRS 38.243, and any applicable statute or court rule governing the award of attorney's fees or costs to any party; and

~~[~~(c)~~]~~ ***(d)*** Must be accompanied by a separate form acknowledging that the party has received and read the informational statement, which must be returned to the arbitrator by the party not later than 10 days after receipt of the informational statement.

3. ***Arbitration conducted pursuant to this section must be nonbinding arbitration, unless all the parties agree in writing to binding arbitration.***

4. The Division may provide for the payment of the fees for ~~[~~a mediator or~~]~~ an arbitrator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission ~~[~~for Common-Interest Communities and Condominium Hotels~~]~~ approves the payment; and

(b) There is money available in the account for this purpose.

~~[~~4.~~]~~ ***5. The Division may adopt regulations governing:***

(a) The maximum amount that may be charged for arbitration;

(b) The procedures for conducting arbitration; and

(c) Reasonable limitations on excessive arbitration related activities, including, without limitation, site visits, charges for travel time, pre-arbitration costs and charges for excessive or unnecessary correspondence.

6. The fees for an arbitrator selected or appointed pursuant to this section must not exceed $1,000, unless a greater fee is authorized for good cause shown. Except as otherwise provided in subsection 4, each party to the arbitration must pay an equal percentage of the fees for the arbitration.

7. Unless all the parties to the arbitration otherwise agree in writing, the arbitration of a claim pursuant to this section must be conducted in accordance with:

(a) The rules of the American Arbitration Association or its successor organization concerning the manner in which to provide speedy arbitration; or

(b) Other comparable rules for speedy arbitration approved by the Commission or the Division.

~~*[6.]*~~ ***8.*** Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, ***and section 15 of this act,*** the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At any time during the arbitration of a claim relating to the interpretation, application ***,*** ~~[or]~~ enforcement ***or violation*** of any ***governing documents or*** covenants, conditions or restrictions applicable to residential property ***,*** ~~[or any bylaws, rules or regulations adopted by an association,]~~ the arbitrator may issue an order prohibiting the action upon which the claim is based. An award must be made within 30 days after the conclusion of arbitration, unless a shorter period is agreed upon by the parties to the arbitration.

~~[5.]~~ ***9. The arbitrator shall provide a copy of a final arbitration award to the Division***.

~~*[7.]*~~ ***10. Except as otherwise provided in subsection 4 and subject to subsection 6 and any regulations adopted by the Commission, the parties to an arbitration conducted pursuant to this section are responsible for the payment of all fees and costs of arbitration in the manner provided by the arbitrator.***

~~*[8.]*~~ ***11.*** If ~~[all the parties have agreed to]~~ ***an arbitration conducted pursuant to this section is*** nonbinding arbitration, any party to the nonbinding arbitration may, within 30 days after a decision and award have been served upon the parties, commence a civil action in the proper court concerning the claim which was submitted for arbitration. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive ~~[.]~~ ***, and section 15 of this act.*** If such an action is not commenced within that period, any party to the arbitration may, within 1 year after the service of the award, apply to the proper court for a confirmation of the award pursuant to NRS 38.239.

~~[6.]~~ ~~*[9.]*~~ ***12.*** If all the parties agree in writing to ~~[binding]~~ arbitration, the arbitration must be conducted in accordance with the provisions of this chapter. An award procured pursuant to such binding arbitration may be vacated and a rehearing granted upon application of a party pursuant to the provisions of NRS 38.241.

~~[7.]~~ ~~*[10.]*~~ ***13.*** If, after the conclusion of binding arbitration, a party:

(a) Applies to have an award vacated and a rehearing granted pursuant to NRS 38.241; or

(b) Commences a civil action based upon any claim which was the subject of arbitration,

➥ the party shall, if the party fails to obtain a more favorable award or judgment than that which was obtained in the initial ~~[binding]~~ arbitration, pay all costs and reasonable attorney's fees incurred by the opposing party after

the application for a rehearing was made or after the complaint in the civil action was filed.

~~[8. Upon request by a party, the Division shall provide a statement to the party indicating the amount of the fees for a mediator or an arbitrator selected or appointed pursuant to this section.~~

~~9.]~~ ~~[11.]~~ ***14.*** As used in this section, "geographic area" means an area within 150 miles from any residential property or association which is the subject of a written claim submitted pursuant to NRS 38.320.

Sec. 20. NRS 38.340 is hereby amended to read as follows:

38.340 ***1.*** For the purposes of NRS 38.300 to 38.360, inclusive, ***and section 15 of this act and 116.745 to 116.795, inclusive, and section 1 of this act,*** the Division shall establish and maintain:

~~[1.]~~ ***(a)*** A list of mediators and arbitrators who are available for mediation and arbitration of claims. The list must include mediators and arbitrators who, as determined by the Division, have received training and experience in mediation or arbitration and in the resolution of disputes concerning associations, including, without limitation, the interpretation, application and enforcement of ***governing documents,*** covenants, conditions and restrictions pertaining to residential property and the articles of incorporation, bylaws, rules and regulations of an association. In establishing and maintaining the list, the Division may use lists of qualified persons maintained by any organization which provides mediation or arbitration services. Before including a mediator or arbitrator on a list established and maintained pursuant to this ~~[section,]~~ ***subsection,*** the Division may require the mediator or arbitrator to present proof satisfactory to the Division that the mediator or arbitrator has received the training and experience required for mediators or arbitrators pursuant to this ~~[section.~~

~~2.]~~ ***subsection.***

(b) A document which contains a written explanation of the procedures for mediating and arbitrating claims pursuant to NRS 38.300 to 38.360, inclusive ~~[.]~~ ***, and section 15 of this act and 116.745 to 116.795, inclusive, and section 1 of this act.***

(c) A record of each final arbitration award of an arbitration conducted pursuant to NRS 38.330 which is indexed by topic and made available to the public through any means deemed appropriate by the Division.

2. Upon the request of a party to a mediation or arbitration conducted pursuant to NRS 38.300 to 38.360, inclusive, and section 15 of this act and 116.745 to 116.795, inclusive, and section 1 of this act, the Division shall provide a statement to the party indicating the amount of the fees for a mediator selected or appointed pursuant to section 1 or 15 of this act or an arbitrator selected or appointed pursuant to NRS 38.330.

Sec. 21. NRS 38.350 is hereby amended to read as follows:

38.350 Any statute of limitations applicable to a claim described in ***subsection 1 of*** NRS 38.310 is tolled from the time the claim is submitted for mediation or arbitration pursuant to NRS 38.320 ***, 38.330 or 116.760, as***

applicable, until the conclusion of mediation or arbitration of the claim and the period for vacating the award has expired.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 254.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 307.

The following Assembly amendment was read:

Amendment No. 741.

"SUMMARY—Revises provisions relating to the exercise of the power of sale under a deed of trust concerning owner-occupied property. (BDR 9-958)"

"AN ACT relating to real property; revising provisions governing the exercise of the power of sale under a deed of trust concerning owner-occupied property; 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) ~~[Existing law prohibits the exercise of the trustee's power of sale concerning owner-occupied property unless the trustee records in the office of the county recorder a certificate issued by the entity designated as the Mediation Administrator for the foreclosure mediation program which indicates that foreclosure mediation is not required or has been completed. (NRS 107.086)~~

~~This bill establishes additional restrictions on the trustee's power of sale with respect to owner-occupied housing which are based on Maryland law and which require an analysis of the eligibility of the grantor or person who holds the title of record for a loan modification or other loss mitigation alternative. Section 1 of this bill provides that, not later than 30 days before 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, the beneficiary of the deed of trust must mail to the grantor or the person who holds title of record an application for a loan modification program or other loss mitigation alternative. If the application is returned to the beneficiary within 30 days after the date on which it is received by the grantor or person who holds title of record: (1) the beneficiary must forward it to the person responsible for analyzing the eligibility of the grantor or the person who holds title of record for a loan modification or other loss mitigation alternative; (2) that person must complete an analysis of the application; and (3) the trustee may not exercise the power of sale unless the beneficiary has mailed to the grantor or the person who holds title of record an affidavit certifying that an analysis of the application was completed. If the grantor or person who holds title of~~

~~record returns a loss mitigation application within the required time period and requests foreclosure mediation in accordance with existing law: (1) under section 1, the analysis of the application must be completed before the mediation is conducted; and (2) under section 1.7 of this bill, the beneficiary of the deed of trust must bring to the mediation certain information related to the loss mitigation application. Section 1 further provides that if the grantor or the person who holds title of record does not return the loss mitigation application within 30 days after receipt of the application: (1) the beneficiary shall mail an affidavit to the grantor or person who holds title of record attesting to that fact; and (2) the trustee may exercise the power of sale in accordance with existing law.~~

~~Existing law provides that if certain provisions of existing law governing the exercise of the trustee's power of sale are not followed, a court of competent jurisdiction may void the sale. (NRS 107.080) Section 1.3 of this bill authorizes a court of competent jurisdiction to void a sale made pursuant to the exercise of the trustee's power of sale if the beneficiary of the deed of trust does not comply with the provisions of this bill.]~~ **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 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 1.7 of this bill requires the notice of default and election to sell that 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 1.5 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. ~~[Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*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 this section.*~~

~~*2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless:*~~

~~*(a) Not later than 30 days before 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 pursuant to subsection 3 of NRS 107.080, the beneficiary of the deed of trust mails 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:*~~

~~*(1) A loss mitigation application for loss mitigation programs that are applicable to the obligation secured by the deed of trust;*~~

~~*(2) Instructions for completing the loss mitigation application;*~~

~~*(3) A description of the eligibility requirements for the loss mitigation programs offered by the beneficiary that may be applicable to the obligation secured by the deed of trust;*~~

~~*(4) A telephone number which the grantor or the person who holds title of record may call to confirm receipt of the completed loss mitigation application; and*~~

~~*(5) An envelope preprinted with the address of the beneficiary.*~~

~~*(b) The beneficiary mails by registered or certified mail, return receipt requested and with postage prepaid, to the grantor or the person who holds title of record, the affidavit described in subsection 3 or a final loss mitigation affidavit.*~~

~~*3. If the grantor or the person who holds the title of record fails to return the loss mitigation application to the beneficiary of the deed of trust within 30 days after receipt of the application, the beneficiary shall execute an affidavit attesting to that fact under penalty of perjury and mail a copy of the affidavit to the grantor or the person who holds the title of record by registered or certified mail, return receipt requested and with postage prepaid.*~~

~~*4. If the grantor or the person who holds the title of record returns the loss mitigation application to the beneficiary of the deed of trust within 30 days after receipt of the application, the beneficiary shall forward the loss mitigation application to the person responsible for conducting loss mitigation analysis on behalf of the beneficiary. Upon receipt of a loss mitigation application pursuant to this subsection, the person responsible for conducting loss mitigation analysis shall perform and complete a loss mitigation analysis. If the grantor or the person who holds the title of record has returned the loss mitigation application to the beneficiary within the time specified in this subsection and has elected to enter into mediation pursuant*~~

~~*to NRS 107.086, the loss mitigation analysis must be completed before the mediation is conducted.*~~

~~*5. Upon completion of the loss mitigation analysis pursuant to subsection 4, the beneficiary shall:*~~

~~*(a) Execute a final loss mitigation affidavit; and*~~

~~*(b) Mail the final loss mitigation affidavit by registered or certified mail, return receipt requested and with postage prepaid, to the grantor or the person who holds the title of record.*~~

~~*6. A beneficiary of a deed of trust, or a person conducting loss mitigation analysis on behalf of the beneficiary, which has received a loan mitigation application within the time specified in subsection 4 shall not deny a loan modification or any other loss mitigation program because of an inability to establish communication with the grantor or the person who holds the title of record or obtain all documentation and information necessary to conduct the loss mitigation analysis unless, for at least 30 days after receipt of the loss mitigation application, the beneficiary or the person acting on its behalf has made good faith attempts to:*~~

~~*(a) Establish communication with the grantor or the person who holds the title of record; and*~~

~~*(b) Obtain all documentation and information necessary to conduct the loss mitigation analysis.*~~

~~*7. As used in this section:*~~

~~*(a) "Final loss mitigation affidavit" means an affidavit that:*~~

~~*(1) Is made by the beneficiary of a deed of trust or a person authorized to act on behalf of the beneficiary;*~~

~~*(2) Certifies the completion of the final determination of loss mitigation analysis in connection with a deed of trust; and*~~

~~*(3) Certifies the denial of a loan modification or other loss mitigation.*~~

~~*(b) "Loss mitigation analysis" means an evaluation of the facts and circumstances of an obligation secured by a deed of trust concerning owner-occupied housing to determine:*~~

~~*(1) Whether the grantor or the person who holds the title of record qualifies for a loan modification; and*~~

~~*(2) If there will not be a loan modification, whether any other loss mitigation program may be made available to the grantor or the person who holds the title of record.*~~

~~*(c) "Loss mitigation program" means an option in connection with an obligation secured by a deed of trust concerning owner-occupied housing that:*~~

~~*(1) Avoids the exercise of the trustee's power of sale through loan modification or other changes to the existing terms of the obligation that are intended to allow the grantor or the person who holds the title of record to stay in the property;*~~

~~*(2) Avoids the exercise of the trustee's power of sale through a short sale, deed in lieu of trustee's sale or other alternative that is intended to*~~

~~simplify the relinquishment of ownership of the property by the grantor or the person who holds the title of record; or~~

~~(3) Lessens the harmful impact of the exercise of the trustee's power of sale on the grantor or the person who holds the title of record.~~

~~(d) "Owner-occupied housing" has the meaning ascribed to it in NRS 107.086.]~~ **(Deleted by amendment.)**

Sec. 1.3. ~~[~~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 section 1 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 a residential foreclosure, comply with the provisions of NRS 107.087.~~

~~4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:~~

~~(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;~~

~~(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;~~

~~(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated; and~~

~~(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~~ **[**;**]** ~~*or the beneficiary of the deed of trust does not comply with any applicable provision of section 1 of this act;*~~

~~(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.)**

Sec. 1.5. **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),]~~ ***(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. 1.7. NRS 107.086 is hereby amended to read as follows:

107.086 1. In addition to the requirements of NRS 107.085, ~~*[and section 1 of this act,]*~~ 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 . ~~[and, if the grantor or the person who holds the title of record has returned to the beneficiary a loss mitigation application pursuant to section 1 of this act, a copy of the loss mitigation application, a final loss mitigation affidavit and the information obtained in connection with the loss mitigation analysis.]~~ 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) ~~*["Final loss mitigation affidavit" has the meaning ascribed to it in section 1 of this act.*~~

~~*(b)]*~~ "Mediation Administrator" means the entity so designated pursuant to subsection 8.

(b) ~~*[(c)]*~~ "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) ~~[(d)]~~ "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. 2. The amendatory provisions of this act apply only with respect to trust agreements ~~[which concern owner-occupied housing, as defined in NRS 107.086, as amended by section 1.7 of this act,]~~ for which a notice of default is recorded on or after July 1, 2011.

Sec. 3. This act becomes effective on July 1, 2011.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 307.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 381.

The following Assembly amendments were read:

Amendment No. 730.

"SUMMARY—Revises provisions concerning the issuance of marriage licenses. (BDR 11-227)"

"AN ACT relating to marriage; revising provisions concerning the issuance of marriage licenses; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that before two people may be joined in marriage, they must obtain a marriage license from the county clerk of any county in the State. (NRS 122.040) **Section 8.5** of this bill requires the board of county commissioners in each county whose population is **100,000 or more but** less than 700,000 (currently ~~[all counties other than Clark]~~ **Washoe** County) and in which a commercial wedding chapel has been in business for 5 years or more to: (1) ensure that an office where marriage licenses may be issued is open to the public for the purpose of issuing such licenses from 8 a.m. to 12 a.m. every day, including holidays; or (2) provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses during the hours when an office where marriage licenses may be issued is not open to the public. **Additionally, section 8.5 authorizes the board of county commissioners in each county whose population is less than 100,000 (currently all counties other than Clark County and Washoe County) and in which a commercial wedding chapel has been in business for 5 years or more to provide for the establishment of a program whereby such a commercial wedding chapel may issue marriage licenses during the hours when an office where marriage licenses may be issued is not open to the public.** Any such program that ~~[is established]~~ **a board of county commissioners is required or authorized to establish** must authorize a commercial wedding chapel that has been in business in the county for 5 years or more to begin issuing marriage licenses upon filing a

completed registration form with the county clerk, along with a performance bond in the amount of $50,000.

Section 8.5 also requires a commercial wedding chapel to refer any application for a marriage license that includes the signature of a guardian for a minor applicant to the county clerk for review and issuance of the marriage license, and provides that the persons to whom a commercial wedding chapel issues a marriage license may only be joined in marriage in the county in which the marriage license is issued. **Section 8.5** further provides that a commercial wedding chapel that violates any provision relating to the issuance of marriage licenses is guilty of a misdemeanor.

Section 12 of this act provides that the sections of this bill that provide for the establishment of county programs for the issuance of marriage licenses by certain commercial wedding chapels expire by limitation in 2 years.

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

Section 1. Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8.5, inclusive, of this act.

Sec. 2. ***"Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.***

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.5. ***1. In each county whose population is 100,000 or more but less than 700,000, in which a commercial wedding chapel has been in business for 5 years or more, the board of county commissioners shall:***

(a) Ensure that an office where marriage licenses may be issued is open to the public for the purpose of issuing such licenses from 8 a.m. to 12 a.m. every day, including holidays; or

(b) Provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses to qualified applicants during the hours when an office where marriage licenses may be issued pursuant to paragraph (a) is not open to the public.

2. In each county whose population is less than 100,000, in which a commercial wedding chapel has been in business in the county for 5 years or more, the board of county commissioners may provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses to qualified applicants during the hours when an office where marriage licenses may be issued is not open to the public.

3. Except as otherwise provided in subsection [3,] 4, a program established pursuant to [paragraph (b) of] subsection 1 or 2 must authorize each commercial wedding chapel that has been in business in the county for 5 years or more to begin issuing marriage licenses upon filing with the county clerk a completed registration form prescribed by the board of county commissioners, along with a performance bond in the amount of $50,000. The performance bond must be conditioned upon the faithful performance of all statutory duties related to the issuance of marriage licenses and compliance with the provisions of chapter 603A of NRS that ensure the security of personal information submitted by applicants for a marriage license.

[3.] 4. A commercial wedding chapel shall refer any application for a marriage license that includes the signature of a guardian for a minor applicant to the county clerk for review and issuance of the marriage license pursuant to NRS 122.040.

[4.] 5. The county clerk of the county in which a commercial wedding chapel that issues marriage licenses pursuant to this section is located shall provide to the commercial wedding chapel, without charge, any materials necessary for the commercial wedding chapel to issue marriage licenses. The number of marriage licenses that the commercial wedding chapel may issue must not be limited.

[5.] 6. A commercial wedding chapel that issues marriage licenses pursuant to this section shall comply with all statutory provisions governing the issuance of marriage licenses in the same manner as the county clerk is required to comply, and shall:

(a) File the original application for a marriage license with the county clerk on the first available business day after completion of the application;

(b) Collect from an applicant for a marriage license all fees required by law to be collected; and

(c) Remit all fees collected to the county clerk, in the manner required by the standard of practice adopted by the county clerk.

[6.] 7. The records of a commercial wedding chapel that issues marriage licenses pursuant to this section which pertain to the issuance of a marriage license are public records and must be made available for public inspection at reasonable times. Such a commercial wedding chapel shall comply with the provisions of chapter 603A of NRS in the same manner as all other data collectors to ensure the security of all personal information submitted by applicants for a marriage license.

[7.] 8. The persons to whom a commercial wedding chapel issues a marriage license may not be joined in marriage in any county other than the county in which the marriage license is issued.

[8.] 9. A commercial wedding chapel that violates any provision of this section is guilty of a misdemeanor.

Sec. 9. NRS 122.001 is hereby amended to read as follows:

122.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.002 and 122.006 ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 9.5. NRS 122.040 is hereby amended to read as follows:

122.040 1. ~~[Before]~~ ***Except as otherwise provided in section 8.5 of this act, before*** persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State. Except as otherwise provided in this subsection, the license must be issued at the county seat of that county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. Except as otherwise provided in this section, before issuing a marriage license, the county clerk shall require each applicant to provide proof of the applicant's name and age. The county clerk may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and:

(1) Any secondary document that contains the name and a photograph of the applicant; or

(2) Any document for which identification must be verified as a condition to receipt of the document.

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States

Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.

3. Except as otherwise provided in subsection 4, the county clerk issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. The county clerk shall not deny a license to an applicant who states that the applicant does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, the county clerk may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. If the district court waives the requirements of subsection 3, the district court shall notify the county clerk in writing. If the county clerk or the district court waives the requirements of subsection 3, the county clerk shall require the applicant who is able to appear before the county clerk to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk shall not require any evidence to verify a social security number.

➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk shall not deny a license to an applicant who states that the applicant does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk and make oath that the witness saw the parent or guardian subscribe his or her name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.

7. If the authorization of a district court is required, the county clerk shall issue the license if that authorization is given to the county clerk in writing.

8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 10. (Deleted by amendment.)

Sec. 11. The board of county commissioners of each county whose population is **100,000 or more but** less than 700,000, in which a commercial wedding chapel has been in business for 5 years or more, shall take such actions as are necessary to ensure compliance with the provisions of section 8.5 of this act on or before July 1, 2011.

Sec. 12. This act becomes effective upon passage and approval and expires by limitation on June 30, 2013.

Amendment No. 765.

"SUMMARY—Revises provisions concerning ~~[the issuance of marriage licenses.]~~ **counties.** (BDR 11-227)"

"AN ACT relating to ~~[marriage; revising provisions concerning the issuance of marriage licenses;]~~ **counties; providing for the establishment of county programs for the issuance of marriage licenses by certain commercial wedding chapels; removing the prospective expiration of provisions allowing a county office to deviate from the required hours of operation under certain circumstances;** providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that before two people may be joined in marriage, they must obtain a marriage license from the county clerk of any county in the State. (NRS 122.040) **Section 8.5** of this bill requires the board of county commissioners in each county whose population is less than 700,000 (currently all counties other than Clark County) and in which a commercial wedding chapel has been in business for 5 years or more to: (1) ensure that an office where marriage licenses may be issued is open to the public for the purpose of issuing such licenses from 8 a.m. to 12 a.m. every day, including holidays; or (2) provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses during the hours when an office where marriage licenses may be issued is not open to the public. Any such program that is established must authorize a commercial wedding chapel that has been in business in the county for 5 years or more to begin issuing marriage licenses upon filing a completed registration form with the county clerk, along with a performance bond in the amount of $50,000.

Section 8.5 also requires a commercial wedding chapel to refer any application for a marriage license that includes the signature of a guardian for a minor applicant to the county clerk for review and issuance of the marriage license, and provides that the persons to whom a commercial wedding chapel issues a marriage license may only be joined in marriage in the county in which the marriage license is issued. **Section 8.5** further provides that a commercial wedding chapel that violates any provision relating to the issuance of marriage licenses is guilty of a misdemeanor.

Existing law also establishes the required hours of operation for county offices, including offices where marriage licenses may be issued. (NRS 122.061, 245.040, 252.050) However, for the period between March 11, 2010, and June 30, 2011, county offices are authorized under existing law to deviate from those required hours of operation if the board of county commissioners approves the plan for the deviation submitted by the office. (Chapter 9, Statutes of Nevada 2010, 26th Special Session, p. 50) Section 9.7 of this bill makes the temporary authority to deviate from the required hours of operation permanent.

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

Section 1. Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8.5, inclusive, of this act.

Sec. 2. ***"Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.***

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.5. ***1. In each county whose population is less than 700,000, in which a commercial wedding chapel has been in business for 5 years or more, the board of county commissioners shall:***

(a) Ensure that an office where marriage licenses may be issued is open to the public for the purpose of issuing such licenses from 8 a.m. to 12 a.m. every day, including holidays; or

(b) Provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses to qualified applicants during the hours when an office where marriage licenses may be issued pursuant to paragraph (a) is not open to the public.

2. Except as otherwise provided in subsection 3, a program established pursuant to paragraph (b) of subsection 1 must authorize each commercial wedding chapel that has been in business in the county for 5 years or more to begin issuing marriage licenses upon filing with the county clerk a completed registration form prescribed by the board of county commissioners, along with a performance bond in the amount of $50,000. The performance bond must be conditioned upon the faithful performance of all statutory duties related to the issuance of marriage licenses and compliance with the provisions of chapter 603A of NRS that ensure the security of personal information submitted by applicants for a marriage license.

3. A commercial wedding chapel shall refer any application for a marriage license that includes the signature of a guardian for a minor applicant to the county clerk for review and issuance of the marriage license.

4. The county clerk of the county in which a commercial wedding chapel that issues marriage licenses pursuant to this section is located shall provide to the commercial wedding chapel, without charge, any materials necessary for the commercial wedding chapel to issue marriage licenses. The number of marriage licenses that the commercial wedding chapel may issue must not be limited.

5. A commercial wedding chapel that issues marriage licenses pursuant to this section shall comply with all statutory provisions governing the issuance of marriage licenses in the same manner as the county clerk is required to comply, and shall:

(a) File the original application for a marriage license with the county clerk on the first available business day after completion of the application;

(b) Collect from an applicant for a marriage license all fees required by law to be collected; and

(c) Remit all fees collected to the county clerk, in the manner required by the standard of practice adopted by the county clerk.

6. The records of a commercial wedding chapel that issues marriage licenses pursuant to this section which pertain to the issuance of a marriage license are public records and must be made available for public inspection at reasonable times. Such a commercial wedding chapel shall comply with the provisions of chapter 603A of NRS in the same manner as all other data collectors to ensure the security of all personal information submitted by applicants for a marriage license.

7. The persons to whom a commercial wedding chapel issues a marriage license may not be joined in marriage in any county other than the county in which the marriage license is issued.

8. A commercial wedding chapel that violates any provision of this section is guilty of a misdemeanor.

Sec. 9. NRS 122.001 is hereby amended to read as follows:

122.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.002 and 122.006 ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 9.5. NRS 122.040 is hereby amended to read as follows:

122.040 1. ~~[Before]~~ ***Except as otherwise provided in section 8.5 of this act, before*** persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State. Except as otherwise provided in this subsection, the license must be issued at the county seat of that county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. Except as otherwise provided in this section, before issuing a marriage license, the county clerk shall require each applicant to provide proof of the applicant's name and age. The county clerk may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and:

(1) Any secondary document that contains the name and a photograph of the applicant; or

(2) Any document for which identification must be verified as a condition to receipt of the document.

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.

3. Except as otherwise provided in subsection 4, the county clerk issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. The county clerk shall not deny a license to an applicant who states that the applicant does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, the county clerk may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. If the district court waives the requirements of subsection 3, the district court shall notify the county clerk in writing. If the county clerk or the district court waives the requirements of subsection 3, the county clerk shall require the applicant who is able to appear before the county clerk to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of

application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk shall not require any evidence to verify a social security number.

➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk shall not deny a license to an applicant who states that the applicant does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk and make oath that the witness saw the parent or guardian subscribe his or her name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.

7. If the authorization of a district court is required, the county clerk shall issue the license if that authorization is given to the county clerk in writing.

8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 9.7. **Section 5 of chapter 9, Statutes of Nevada 2010, 26th Special Session, at page 52, is hereby amended to read as follows:**

Sec. 5. This act becomes effective upon passage and approval **.** ~~[and expires by limitation on June 30, 2011.]~~

Sec. 10. (Deleted by amendment.)

Sec. 11. The board of county commissioners of each county whose population is less than 700,000, in which a commercial wedding chapel has been in business for 5 years or more, shall take such actions as are necessary to ensure compliance with the provisions of section 8.5 of this act on or before July 1, 2011.

Sec. 12. **1.** This act becomes effective upon passage and approval**.** ~~[and expires]~~

2. This section and sections 1 to 9.5, inclusive, and 10 and 11 of this act expire by limitation on June 30, 2013.

Senator Wiener moved that the Senate concur in the Assembly amendments to Senate Bill No. 381.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 403.

The following Assembly amendment was read:

Amendment No. 739.

"SUMMARY—Revises provisions relating to the information which must be provided by a unit's owner in a resale transaction. (BDR 10-1126)"

"AN ACT relating to common-interest communities; revising provisions relating to the information which must be provided by a unit's owner in a resale transaction; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill revises provisions relating to the information which must be provided in a resale package by a unit's owner for the benefit of a purchaser in a resale transaction.

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

Section 1. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his or her authorized agent shall, at the expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095**.** ~~[:]~~

(b) A statement ***from the association*** setting forth the amount of the monthly assessment for common expenses and any unpaid ~~[assessment]~~ ***obligation*** of any kind ***, including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees*** currently due from the selling unit's owner**.** ~~[;]~~ ***The statement remains effective for the period specified in the statement, which must not be less than 15 working days from the date of delivery by the association to the unit's owner or his or her agent. If the association becomes aware of an error in the statement during the period in which the statement is effective but before the consummation of the resale, the association must deliver a replacement statement to the unit's owner or his or her agent and obtain an acknowledgment in writing by the unit's owner or his or her agent before that consummation. Unless the unit's owner or his or her agent receives a***

replacement statement, the unit's owner or his or her agent may rely upon the accuracy of the information set forth in a statement provided by the association for the resale.

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152**.** ~~[;]~~

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge**.** ~~[;]~~

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit**.** ~~[; and]~~

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, the purchaser must hand deliver the notice of cancellation to the unit's owner or his or her authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his or her authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his or her authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his or her authorized agent, the association shall furnish all of the following to the unit's owner or his or her authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b), (d) and (e) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his or her authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the ~~[seller]~~ ***purchaser*** is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his or her authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his or her authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 403.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 168.

The following Assembly amendment was read:

Amendment No. 881.

"SUMMARY—Makes various changes concerning public health. (BDR 54-837)"

"AN ACT relating to public health; revising provisions governing access to certain medical records; ~~[requiring a physician or an osteopathic physician who performs an autopsy to submit a written report of the findings of the~~

~~autopsy to the Board of Medical Examiners or the State Board of Osteopathic Medicine in certain circumstances;~~] revising provisions governing the submission of certain reports concerning surgeries requiring conscious sedation, deep sedation or general anesthesia; revising provisions governing reports to the Board of Medical Examiners and the State Board of Osteopathic Medicine of a change in the privileges of certain providers of health care; revising provisions governing the standard of proof in any disciplinary hearing before the Board of Medical Examiners; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides that if the health care records of a patient are located within this State, a provider of health care must make the records available for physical inspection within 5 working days after they are requested.

[~~Section 2 of this bill requires a physician who performs an autopsy and who determines that the death of the decedent is the result of an overdose of a controlled substance or dangerous drug to submit a written report of such findings to the Board of Medical Examiners. Section 2 also requires the Board, upon receipt of such a report, to investigate the death of the decedent to determine whether the conduct of any physician contributed to the death. Section 18 of this bill imposes similar requirements concerning an autopsy performed by an osteopathic physician.~~]

Existing law requires any hospital, clinic or other medical facility or medical society to report to the Board of Medical Examiners any change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care while the person is under investigation and the outcome of any disciplinary action taken within 30 days after the change in privileges is made or disciplinary action is taken. A hospital, clinic or other medical facility or medical society is also required to report such information to the State Board of Osteopathic Medicine concerning a change in the privileges of an osteopathic physician who is under investigation. (NRS 630.307, 633.533)

Section 8 of this bill requires that such a report concerning a change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care be made within 5 days after the change in privileges is made if the change in privileges is based on an investigation of the mental, medical or psychological competency of the person or suspected or alleged substance abuse by the person. **Section 21** of this bill imposes similar reporting requirements concerning a change in the privileges of a physician assistant who is under investigation and a change in the privileges of an osteopathic physician or physician assistant if the change in privileges is based on an investigation of the mental, medical or psychological competency of the osteopathic physician or physician assistant or suspected or alleged substance abuse by the osteopathic physician or physician assistant.

Section 10 of this bill provides that in any disciplinary hearing before the Board of Medical Examiners, a finding of the Board must be supported by a preponderance of the evidence.

Existing law requires persons who are licensed to practice medicine by the Board of Medical Examiners and persons who are licensed to practice osteopathic medicine by the State Board of Osteopathic Medicine to make certain reports concerning surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license and the occurrence of any sentinel events arising from those surgeries. Persons who are licensed to practice medicine are required to submit the reports to the Board of Medical Examiners and persons who are licensed to practice osteopathic medicine are required to submit the reports to the State Board of Osteopathic Medicine. The boards are required to submit the reports to the Health Division of the Department of Health and Human Services which then reviews the reports. (NRS 449.447, 630.30665, 633.524) **Section 7.5** of this bill revises these reporting requirements as they pertain to a physician and requires a physician to report the occurrence of any sentinel event arising from a surgery requiring conscious sedation, deep sedation or general anesthesia within 14 days after the occurrence of the sentinel event. **Section 20** of this bill imposes a similar reporting requirement on an osteopathic physician.

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

Section 1. NRS 629.061 is hereby amended to read as follows:

629.061 1. Each provider of health care shall make the health care records of a patient available for physical inspection by:

(a) The patient or a representative with written authorization from the patient;

(b) The personal representative of the estate of a deceased patient;

(c) Any trustee of a living trust created by a deceased patient;

(d) The parent or guardian of a deceased patient who died before reaching the age of majority;

(e) An investigator for the Attorney General or a grand jury investigating an alleged violation of NRS 200.495, 200.5091 to 200.50995, inclusive, or 422.540 to 422.570, inclusive;

(f) An investigator for the Attorney General investigating an alleged violation of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive, or any fraud in the administration of chapter 616A, 616B, 616C, 616D or 617 of NRS or in the provision of benefits for industrial insurance; or

(g) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law.

➥ The records must be made available at a place within the depository convenient for physical inspection **.** ~~[, and inspection must be permitted at all reasonable office hours and for a reasonable length of time.]~~ ***If the records***

are located within this State, the provider shall make any records requested pursuant to this section available for inspection within 5 working days after the request. If the records are located outside this State, the provider shall make any records requested pursuant to this section available in this State for inspection within 10 working days after the request.

2. Except as otherwise provided in subsection 3, the provider of health care shall also furnish a copy of the records to each person described in subsection 1 who requests it and pays the actual cost of postage, if any, the costs of making the copy, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy.

3. The provider of health care shall also furnish a copy of any records that are necessary to support a claim or appeal under any provision of the Social Security Act, 42 U.S.C. §§ 301 et seq., or under any federal or state financial needs-based benefit program, without charge, to a patient, or a representative with written authorization from the patient, who requests it, if the request is accompanied by documentation of the claim or appeal. A copying fee, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes, may be charged by the provider of health care for furnishing a second copy of the records to support the same claim or appeal. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy. The provider of health care shall furnish the copy of the records requested pursuant to this subsection within 30 days after the date of receipt of the request, and the provider of health care shall not deny the furnishing of a copy of the records pursuant to this subsection solely because the patient is unable to pay the fees established in this subsection.

4. Each person who owns or operates an ambulance in this State shall make the records regarding a sick or injured patient available for physical inspection by:

(a) The patient or a representative with written authorization from the patient;

(b) The personal representative of the estate of a deceased patient;

(c) Any trustee of a living trust created by a deceased patient;

(d) The parent or guardian of a deceased patient who died before reaching the age of majority; or

(e) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law.

➥ The records must be made available at a place within the depository convenient for physical inspection, and inspection must be permitted at all reasonable office hours and for a reasonable length of time. The person who owns or operates an ambulance shall also furnish a copy of the records to each person described in this subsection who requests it and pays the actual

cost of postage, if any, and the costs of making the copy, not to exceed 60 cents per page for photocopies. No administrative fee or additional service fee of any kind may be charged for furnishing a copy of the records.

5. Records made available to a representative or investigator must not be used at any public hearing unless:

(a) The patient named in the records has consented in writing to their use; or

(b) Appropriate procedures are utilized to protect the identity of the patient from public disclosure.

6. Subsection 5 does not prohibit:

(a) A state licensing board from providing to a provider of health care or owner or operator of an ambulance against whom a complaint or written allegation has been filed, or to his or her attorney, information on the identity of a patient whose records may be used in a public hearing relating to the complaint or allegation, but the provider of health care or owner or operator of an ambulance and the attorney shall keep the information confidential.

(b) The Attorney General from using health care records in the course of a civil or criminal action against the patient or provider of health care.

7. A provider of health care or owner or operator of an ambulance and his or her agents and employees are immune from any civil action for any disclosures made in accordance with the provisions of this section or any consequential damages.

8. For the purposes of this section:

(a) "Guardian" means a person who has qualified as the guardian of a minor pursuant to testamentary or judicial appointment, but does not include a guardian ad litem.

(b) "Living trust" means an inter vivos trust created by a natural person:

(1) Which was revocable by the person during the lifetime of the person; and

(2) Who was one of the beneficiaries of the trust during the lifetime of the person.

(c) "Parent" means a natural or adoptive parent whose parental rights have not been terminated.

(d) "Personal representative" has the meaning ascribed to it in NRS 132.265.

Sec. 2. ~~[Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Any physician who performs an autopsy in this State and who determines that the death of the decedent is the result of an overdose of a controlled substance or a dangerous drug shall, within 30 days after making the determination, submit to the Board a written report of the findings of the autopsy, and provide to the Board any other information requested by the Board.*~~

~~*2. Upon receipt of a report submitted pursuant to subsection 1, the Board shall investigate the death of the decedent to determine whether the conduct of any physician contributed to the death of the decedent.*~~

~~*3. As used in this section, "dangerous drug" has the meaning ascribed to it in NRS 454.201.]*~~ **(Deleted by amendment.)**

Sec. 3. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and ~~[4]~~ ***6*** of NRS 630.307 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

➥ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 4. NRS 630.267 is hereby amended to read as follows:

630.267 1. Each holder of a license to practice medicine must, on or before July 1 ***, or if July 1 is a Saturday, Sunday or legal holiday, on the next business day after July 1,*** of each ~~[alternate]~~ ***odd-numbered*** year:

(a) Submit a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against him or her during the previous 2 years.

(b) Pay to the Secretary-Treasurer of the Board the applicable fee for biennial registration. This fee must be collected for the period for which a physician is licensed.

(c) Submit all information required to complete the biennial registration.

2. When a holder of a license fails to pay the fee for biennial registration and submit all information required to complete the biennial registration after they become due, his or her license to practice medicine in this State ~~[is automatically suspended.]~~ ***expires.*** The holder may, within 2 years after the date the license ~~[is suspended,]~~ ***expires,*** upon payment of twice the amount of the current fee for biennial registration to the Secretary-Treasurer and submission of all information required to complete the biennial registration and after he or she is found to be in good standing and qualified under the provisions of this chapter, be reinstated to practice.

3. The Board shall make such reasonable attempts as are practicable to notify a licensee:

(a) At least once that the fee for biennial registration and all information required to complete the biennial registration are due; and

(b) That his or her license ~~[is suspended.]~~ ***has expired.***

➥ A copy of this notice must be sent to the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 630.2695 is hereby amended to read as follows:

630.2695 1. Each license issued pursuant to NRS 630.2694 expires on July 1 ***, or if July 1 is a Saturday, Sunday or legal holiday, on the next business day after July 1,*** of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to NRS 630.269; and

(c) The applicable fee for renewal of the license prescribed by the Board pursuant to NRS 630.2691.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made ~~[is automatically suspended and]~~ may be reinstated only if the applicant:

(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees:

(1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to NRS 630.269; and

(2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to NRS 630.2692.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his or her license expires. The notice must include the amount of the fee for renewal of the license.

Sec. 7. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the ~~[Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation]~~ ***National Board*** for Respiratory Care or its successor organization;

(d) Be certified by the ~~[Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation]~~ ***National Board*** for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself or herself out as qualified to practice respiratory care,

➥ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 7.5. NRS 630.30665 is hereby amended to read as follows:

630.30665 1. The Board shall require each holder of a license to practice medicine to submit ~~[annually]~~ to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report ~~[annually]~~ to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice medicine shall submit the reports required pursuant to subsections 1 and 2 ~~[whether]~~ ***:***

(a) At the time the holder of a license renews his or her license; and

(b) Whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 9 of NRS 630.306.

4. ***In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 within 14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.***

5. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 ~~[and 2;]~~ ***, 2 and 4;***

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and

(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection ~~[5.]~~ ***6.***

~~[5.]~~ ***6.*** Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 ***,*** ~~[or]~~ 2 ***or 4*** is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

~~[6.]~~ ***7.*** The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

~~[7.]~~ ***8.*** In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

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

(a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.

(b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.

(c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.

(d) "Health Division" has the meaning ascribed to it in NRS 449.009.

(e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 8. NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine, perfusion or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. ~~[Any]~~ ***Except as otherwise provided in subsection 4, any*** hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care to practice while the physician, perfusionist, physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, perfusionist, physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician, perfusionist, physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken.

4. A hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board within 5 days after a change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care to practice that is based on:

(a) An investigation of the mental, medical or psychological competency of the physician, perfusionist, physician assistant or practitioner of respiratory care; or

(b) Suspected or alleged substance abuse in any form by the physician, perfusionist, physician assistant or practitioner of respiratory care.

5. The Board shall report any failure to comply with ~~[this]~~ subsection ***3 or 4*** by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or

society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~[4.]~~ ***6.*** The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, perfusionist, physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

~~[5.]~~ ***7.*** On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection ~~[4.~~

~~6.]~~ ***6.***

8. The Board shall retain all complaints filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

Sec. 9. NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, perfusionist, physician assistant or practitioner of respiratory care to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, perfusionist, physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine, perfusion or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. Except as otherwise provided in NRS 239.0115, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine, perfusion or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 and NRS 239.0115, a complaint filed with the Board pursuant to NRS 630.307, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

5. The ***formal*** complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

Sec. 10. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because the witness was or is incompetent. ~~[Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.]~~

2. ***A finding of the Board must be supported by a preponderance of the evidence.***

3. Proof of actual injury need not be established.

~~[3.]~~ ***4.*** A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine, perfusion or respiratory care is conclusive evidence of its occurrence.

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. ~~[Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Any osteopathic physician who performs an autopsy in this State and who determines that the death of the decedent is the result of an overdose of a controlled substance or a dangerous drug shall, within 30 days after making the determination, submit to the Board a written report of the*~~

~~*findings of the autopsy, and provide to the Board any other information requested by the Board.*~~

~~*2. Upon receipt of a report submitted pursuant to subsection 1, the Board shall investigate the death of the decedent to determine whether the conduct of any osteopathic physician contributed to the death of the decedent.*~~

~~*3. As used in this section, "dangerous drug" has the meaning ascribed to it in NRS 454.201.]*~~ **(Deleted by amendment.)**

Sec. 19. NRS 633.286 is hereby amended to read as follows:

633.286 1. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against osteopathic physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 633.526, 633.527, subsections 3 and ~~[4]~~ ***6*** of NRS 633.533 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 633.524, including, without limitation, the number and types of surgeries performed by each holder of a license to practice osteopathic medicine and the occurrence of sentinel events arising from such surgeries, if any.

2. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

Sec. 20. NRS 633.524 is hereby amended to read as follows:

633.524 1. The Board shall require each holder of a license to practice osteopathic medicine issued pursuant to this chapter to submit ~~[annually]~~ to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice osteopathic medicine to submit a report ~~[annually]~~ to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice osteopathic medicine shall submit the reports required pursuant to subsections 1 and 2 ~~[whether]~~ ***:***

(a) At the time the holder of the license renews his or her license; and

(b) Whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to NRS 633.511.

4. ***In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice osteopathic medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 within 14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.***

5. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 ~~[and 2;]~~ ***, 2 and 4;***

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and

(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection ~~[5.]~~ ***6.***

~~[5.]~~ ***6.*** Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 ***,*** ~~[or]~~ 2 ***or 4*** is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

~~[6.]~~ ***7.*** The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

~~[7.]~~ ***8.*** In addition to any other remedy or penalty, if a holder of a license to practice osteopathic medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice osteopathic medicine with notice and opportunity for a hearing, impose against the holder of a license an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license to practice osteopathic medicine. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

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

(a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.

(b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.

(c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.

(d) "Health Division" has the meaning ascribed to it in NRS 449.009.

(e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 21. NRS 633.533 is hereby amended to read as follows:

633.533 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against an osteopathic physician ***or physician assistant*** on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing osteopathic medicine in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. ~~[Any]~~ ***Except as otherwise provided in subsection 4, any*** hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in ~~[an osteopathic physician's]~~ ***the*** privileges ***of an osteopathic physician or physician assistant*** to practice ~~[osteopathic medicine]~~ while the osteopathic physician ***or physician assistant*** is under investigation and the outcome of any disciplinary action taken by that facility or society against the osteopathic physician ***or physician assistant*** concerning the care of a patient or the competency of the osteopathic physician ***or physician assistant*** within 30 days after the change in privileges is made or disciplinary action is taken.

4. A hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board within 5 days after a change in the privileges of an osteopathic physician or physician assistant that is based on:

(a) An investigation of the mental, medical or psychological competency of the osteopathic physician or physician assistant; or

(b) Suspected or alleged substance abuse in any form by the osteopathic physician or physician assistant.

5. The Board shall report any failure to comply with ~~[this]~~ subsection ***3 or 4*** by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid

when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~[4.]~~ ***6.*** The clerk of every court shall report to the Board any finding, judgment or other determination of the court that an osteopathic physician or physician assistant:

(a) Is a person with mental illness;

(b) Is a person with mental incompetence;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

~~[5.]~~ ***7.*** On or before January 15 of each year, the clerk of every court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding osteopathic physicians pursuant to paragraph (e) of subsection ~~[4.]~~ ***6.***

Sec. 22. (Deleted by amendment.)

Senator Schneider moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 168.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 18.

The following Assembly amendment was read:

Amendment No. 651.

"SUMMARY—Revises provisions governing the State Contractors' Board. (BDR 54-500)"

"AN ACT relating to contractors; authorizing the State Contractors' Board to discipline a licensed contractor for failure or refusal to comply with an order of the Board; **requiring the Board to impose an administrative fine against a licensee who fails or refuses to comply with an order of the Board;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the State Contractors' Board to discipline licensed contractors and other persons in this State for certain acts or omissions relating to work as a contractor. (NRS 624.295-624.361) Existing law also authorizes the Board to issue an order: (1) requiring a person without an active contractors' license to cease and desist acting as a contractor or bidding on contracting jobs; (2) suspending, revoking or restricting the license of a contractor; (3) requiring a licensed contractor to reimburse the account established pursuant to NRS 624.470 for any sum paid out of the account for injuries caused to a person by the contractor; (4) imposing an administrative fine on a person or licensed contractor; (5) requiring a person

or licensed contractor to correct certain conditions; (6) requiring a person to reimburse the Board for certain expenses; or (7) requiring a person or licensed contractor to cease and desist any unlawful advertising. (NRS 624.212, 624.291, 624.300, 624.341, 624.720)

~~[This]~~ **Section 2 of this** bill expands the scope of the authority of the Board by authorizing the Board to discipline licensed contractors for failure or refusal to comply with an order of the Board. **Section 1 of this bill requires the Board to impose an administrative fine of $1,000 against a licensee who fails or refuses to comply with an order of the Board in addition to certain other disciplinary actions which may be taken by the Board against the licensee.**

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

Section 1. **NRS 624.300 is hereby amended to read as follows:**

624.300 1. Except as otherwise provided in subsections 3 and 5, the Board may:

(a) Suspend or revoke licenses already issued;

(b) Refuse renewals of licenses;

(c) Impose limits on the field, scope and monetary limit of the license;

(d) Impose an administrative fine of not more than $10,000;

(e) Order a licensee to repay to the account established pursuant to NRS 624.470, any amount paid out of the account pursuant to NRS 624.510 as a result of an act or omission of that licensee;

(f) Order the licensee to take action to correct a condition resulting from an act which constitutes a cause for disciplinary action, at the licensee's cost, that may consist of requiring the licensee to:

(1) Perform the corrective work himself or herself;

(2) Hire and pay another licensee to perform the corrective work; or

(3) Pay to the owner of the construction project a specified sum to correct the condition; or

(g) Issue a public reprimand or take other less severe disciplinary action, including, without limitation, increasing the amount of the surety bond or cash deposit of the licensee,

➥ if the licensee commits any act which constitutes a cause for disciplinary action.

2. If the Board suspends or revokes the license of a contractor for failure to establish financial responsibility, the Board may, in addition to any other conditions for reinstating or renewing the license, require that each contract undertaken by the licensee for a period to be designated by the Board, not to exceed 12 months, be separately covered by a bond or bonds approved by the Board and conditioned upon the performance of and the payment of labor and materials required by the contract.

3. If a licensee violates:

(a) The provisions of NRS 624.3014, subsection 2 or 3 of NRS 624.3015, subsection 1 of NRS 624.302 or subsection 1 of NRS 624.305, the Board

may impose for each violation an administrative fine in an amount that is not more than $50,000.

(b) The provisions of subsection 4 of NRS 624.3015:

(1) For a first offense, the Board shall impose an administrative fine of not less than $1,000 and not more than $50,000, and may suspend the license of the licensee for 6 months;

(2) For a second offense, the Board shall impose an administrative fine of not less than $5,000 and not more than $50,000, and may suspend the license of the licensee for 1 year; and

(3) For a third or subsequent offense, the Board shall impose an administrative fine of not less than $10,000 and not more than $50,000, and may revoke the license of the licensee.

(c) The provisions of subsection 7 of NRS 624.302, the Board shall, in addition to any other disciplinary action taken pursuant to this section, impose an administrative fine of $1,000.

4. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to subsection 3. The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the licensee; and

(c) Any history of previous violations of the provisions of this chapter committed by the licensee.

5. If a licensee is prohibited from being awarded a contract for a public work pursuant to NRS 338.017, the Board may suspend the license of the licensee for the period of the prohibition.

6. If a licensee commits a fraudulent act which is a cause for disciplinary action under NRS 624.3016, the correction of any condition resulting from the act does not preclude the Board from taking disciplinary action.

7. If the Board finds that a licensee has engaged in repeated acts that would be cause for disciplinary action, the correction of any resulting conditions does not preclude the Board from taking disciplinary action pursuant to this section.

8. 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 by a licensee, 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.

9. The Board shall not issue a private reprimand to a licensee.

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

11. An administrative fine imposed pursuant to this section or NRS 624.341 or 624.710 plus interest at a rate that is equal to the prime rate at the largest bank in this State, as determined by the Commissioner of Financial Institutions on January 1 or July 1, as appropriate, immediately

preceding the date of the order imposing the administrative fine, plus 4 percent, must be paid to the Board before the issuance or renewal of a license to engage in the business of contracting in this State. The interest must be collected from the date of the order until the date the administrative fine is paid.

12. All fines and interest collected pursuant to this section must be deposited with the State Treasurer for credit to the Construction Education Account created pursuant to NRS 624.580.

~~[Section 1.]~~ ***Sec. 2.*** NRS 624.302 is hereby amended to read as follows:

624.302 The following acts or omissions, among others, constitute cause for disciplinary action pursuant to NRS 624.300:

1. Contracting, offering to contract or submitting a bid as a contractor if the contractor's license:

(a) Has been suspended or revoked pursuant to NRS 624.300; or

(b) Is inactive.

2. Failure to comply with a written citation issued pursuant to NRS 624.341 within the time permitted for compliance set forth in the citation, or, if a hearing is held pursuant to NRS 624.291, within 15 business days after the hearing.

3. Except as otherwise provided in subsection 2, failure to pay an administrative fine imposed pursuant to this chapter within 30 days after:

(a) Receiving notice of the imposition of the fine; or

(b) The final administrative or judicial decision affirming the imposition of the fine,

➥ whichever occurs later.

4. The suspension, revocation or other disciplinary action taken by another state against a contractor based on a license issued by that state if the contractor is licensed in this State or applies for a license in this State. A certified copy of the suspension, revocation or other disciplinary action taken by another state against a contractor based on a license issued by that state is conclusive evidence of that action.

5. Failure or refusal to respond to a written request from the Board or its designee to cooperate in the investigation of a complaint.

6. Failure or refusal to comply with a written request by the Board or its designee for information or records, or obstructing or delaying the providing of such information or records.

7. Failure or refusal to comply with an order of the Board.

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 18.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 36.

The following Assembly amendment was read:

Amendment No. 823.

"SUMMARY—Revises provisions governing ~~[the State Board of Podiatry.]~~ **health care providers.** (BDR 54-502)"

"AN ACT relating to ~~[podiatry;]~~ **health care providers;** requiring each person licensed by the State Board of Podiatry to maintain a permanent mailing address with the Board; requiring each licensee to provide the Board with written notification of any change in his or her permanent address; requiring the Board to impose a fine if a licensee fails to notify the Board of a change in his or her permanent address; requiring a licensee who closes his or her office in this State to notify the Board of the location and custodian of the medical records of the patients of the licensee for a certain period; codifying in statutory form the requirement in administrative regulation that an applicant for a license issued by the Board submit to a criminal background check; **revising provisions governing the qualifications for obtaining a license to practice dental hygiene;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the State Board of Podiatry to license and regulate the conduct of podiatrists and podiatry hygienists. (NRS 635.050-635.180) **Section 2** of this bill requires a licensee to maintain a permanent mailing address with the Board and notify the Board in writing of any change in the licensee's permanent address. **Section 2** also requires the Board to impose a fine against any licensee who fails to notify the Board of a change in his or her permanent address. Additionally, **section 2** requires a licensee who changes the location of his or her office to notify the Board of the new location and requires a licensee who closes his or her office to notify the Board of the closure within 14 days after closing the office. **Section 2** further requires a licensee who closes his or her office to keep the Board apprised of the location and custodian of the medical records of the licensee's patients for a minimum of 5 years.

Existing regulation requires each applicant for licensure by the Board to submit to the Board a complete set of fingerprints and written permission authorizing the Board to submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. (NAC 635.023) **Section 3** of this bill codifies in statute this existing requirement in regulation.

Section 4 of this bill provides that a licensee is subject to disciplinary action if he or she fails to notify the Board in writing of a change in permanent mailing address in the manner required by **section 2** of this bill.

Section 4.5 of this bill revises provisions governing the qualifications for obtaining a license to practice dental hygiene by providing that an applicant may satisfy the clinical examination requirement for licensure if he or she presents evidence to the Board of Dental Examiners of Nevada that the applicant has, within the 5 years immediately preceding

the date of the application, passed a clinical examination approved by the Board and the American Board of Dental Examiners.

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

Section 1. Chapter 635 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. Each licensee shall:***

(a) Maintain a permanent mailing address with the Board; and

(b) If the licensee changes his or her permanent mailing address, notify the Board in writing of the new permanent mailing address within 30 days after the change of address.

2. If a licensee fails to provide the written notice required by paragraph (b) of subsection 1, the Board shall, in addition to any disciplinary action taken or fine imposed pursuant to NRS 635.130, impose upon the licensee a fine not to exceed $250.

3. A licensee who changes the location of his or her office in this State shall notify the Board in writing of the change in location before practicing at the new location.

4. A licensee who closes his or her office in this State shall:

(a) Notify the Board in writing of the closure within 14 days after closing the office; and

(b) For a period of 5 years thereafter, unless a longer period of retention is provided by federal law, keep the Board apprised in writing of the location and custodian of the medical records of the patients of the licensee.

Sec. 3. ***Each applicant for a license, including, without limitation, a limited or provisional license, must submit to the Board:***

1. A complete set of fingerprints; and

2. Written permission authorizing the Board to forward the fingerprints submitted pursuant to subsection 1 to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

Sec. 4. NRS 635.130 is hereby amended to read as follows:

635.130 1. The Board, after notice and a hearing as required by law, and upon any cause enumerated in subsection 2, may take one or more of the following disciplinary actions:

(a) Deny an application for a license or refuse to renew a license.

(b) Suspend or revoke a license.

(c) Place a licensee on probation.

(d) Impose a fine not to exceed $5,000.

2. The Board may take disciplinary action against a licensee for any of the following causes:

(a) The making of a false statement in any affidavit required of the applicant for application, examination or licensure pursuant to the provisions of this chapter.

(b) Lending the use of the holder's name to an unlicensed person.

(c) If the holder is a podiatric physician, permitting an unlicensed person in his or her employ to practice as a podiatry hygienist.

(d) Habitual indulgence in the use of alcohol or any controlled substance which impairs the intellect and judgment to such an extent as in the opinion of the Board incapacitates the holder in the performance of his or her professional duties.

(e) Conviction of a crime involving moral turpitude.

(f) Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(g) Conduct which in the opinion of the Board disqualifies the licensee to practice with safety to the public.

(h) The commission of fraud by or on behalf of the licensee regarding his or her license or practice.

(i) Gross incompetency.

(j) Affliction of the licensee with any mental or physical disorder which seriously impairs his or her competence as a podiatric physician or podiatry hygienist.

(k) False representation by or on behalf of the licensee regarding his or her practice.

(l) Unethical or unprofessional conduct.

(m) ***Failure to comply with the requirements of subsection 1 of section 2 of this act.***

(n) Willful or repeated violations of this chapter or regulations adopted by the Board.

~~[(n)]~~ ***(o)*** Willful violation of the regulations adopted by the State Board of Pharmacy.

~~[(o)]~~ ***(p)*** Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(1) The license of the facility is suspended or revoked; or

(2) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➥ This paragraph applies to an owner or other principal responsible for the operation of the facility.

Sec. 4.5. **Section 1.5 of Assembly Bill No. 55 of this session is hereby amended to read as follows:**

Sec. 1.5. NRS 631.300 is hereby amended to read as follows:

631.300 1. Any person desiring to obtain a license to practice dental hygiene, after having complied with the regulations of the Board to determine eligibility:

(a) Except as otherwise provided in NRS 622.090, must pass a written examination given by the Board upon such subjects as the Board deems necessary for the practice of dental hygiene or must present a certificate granted by the Joint Commission on National Dental Examinations which

contains a notation that the applicant has passed the National Board Dental Hygiene Examination with a score of at least 75; and

(b) Except as otherwise provided in this chapter, must:

(1) Successfully pass a clinical examination approved by the Board and the American Board of Dental Examiners ~~[.]~~ ***or present evidence to the Board that the applicant has passed such a clinical examination within the 5 years immediately preceding the date of the application;***

(2) Successfully complete a clinical examination in dental hygiene given by the Board which examines the applicant's practical knowledge of dental hygiene and which includes, but is not limited to, demonstrations in the removal of deposits from, and the polishing of, the exposed surface of the teeth; or

(3) Present to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the applicant has passed, within the 5 years immediately preceding the date of the application, a clinical examination administered by the Western Regional Examining Board.

2. The clinical examination given by the Board must include components that are:

(a) Written or oral, or a combination of both; and

(b) Practical, as in the opinion of the Board is necessary to test the qualifications of the applicant.

3. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

4. All persons who have satisfied the requirements for licensure as a dental hygienist must be registered as licensed dental hygienists on the board register, as provided in this chapter, and are entitled to receive a certificate of registration, signed by all members of the Board.

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

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 36.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 143.

The following Assembly amendment was read:

Amendment No. 722.

"SUMMARY—Revises certain provisions governing insurance. (BDR 57-723)"

"AN ACT relating to insurance; removing the requirement that a resident producer of insurance maintain a place of business in this State which is accessible to the public; revising provisions relating to a certificate of insurance issued pursuant to a contract or policy of property or casualty insurance; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill removes the requirement that a resident producer of insurance maintain a place of business in this State which is accessible to the public and where he or she principally conducts transactions. **Section 1** also removes the requirement that the license of a producer of insurance be conspicuously displayed in the place of business and instead requires only that the license be made available for public inspection upon request.

Section 2 of this bill amends provisions governing the Nevada Insurance Code (title 57 of NRS) to provide that any certificate of insurance issued regarding a contract or policy of property or casualty insurance, other than a group master policy, which is delivered or issued for delivery in this State: (1) ~~[is informational only; (2)]~~ does not constitute any part of the contract or policy of insurance; and ~~[(3)]~~ **(2)** does not amend any term or alter or extend any coverage, exclusion or condition of the contract or policy of insurance.

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

Section 1. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(f) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

(l) Continuous care coverage, which includes health insurance, as set forth in paragraph (b), and may include insurance for workers' compensation.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, all applicable fees for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account are paid for each license and each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his or her license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of all applicable renewal fees, except for any fee required pursuant to NRS 680C.110. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his or her license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice all applicable renewal fees, except for any fee required pursuant to NRS 680C.110, is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his or her license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. ~~[A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where the resident producer of insurance principally conducts transactions under his or her license. The place of business may be in his or her residence.]~~ The license must be ~~[conspicuously displayed in an area of the place of business which is open to the public.]~~ ***made available for public inspection upon request.***

6. A licensee shall inform the Commissioner of ~~[each change of location from which the licensee conducts business as a producer of insurance and]~~ each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes ~~[the location from which the licensee conducts business as a producer of insurance or]~~ his or her business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, the Commissioner may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his or her last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 2. Chapter 687B of NRS is hereby amended by adding thereto a new section to read as follows:

A certificate of insurance issued regarding a contract or policy of property or casualty insurance, other than a group master policy, which is delivered or issued for delivery in this State:

1. ~~*[Is informational only;*~~

~~*2.]*~~ ***Does not constitute any part of the contract or policy of insurance; and***

~~*[3.]*~~ ***2. Does not amend any term or alter or extend any coverage, exclusion or condition of the contract or policy of insurance.***

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. This act becomes effective on July 1, 2011.

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 143.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 215.

The following Assembly amendment was read:

Amendment No. 719.

"SUMMARY—Makes various changes concerning persons regulated by the Chiropractic Physicians' Board of Nevada. (BDR 54-834)"

"AN ACT relating to chiropractic; requiring the completion of certain continuing education requirements for the renewal of a certificate as a chiropractor's assistant; revising certain provisions governing the issuance and renewal of a ~~[license to practice chiropractic;]~~ **certificate as a chiropractor's assistant;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a chiropractor's assistant may renew his or her certificate as a chiropractor's assistant by paying a fee and submitting certain information to the Chiropractic Physicians' Board of Nevada. (NRS 634.130)

Section 1 of this bill additionally requires a chiropractor's assistant to complete at least 12 hours of continuing education every 2 years as a condition of the renewal of his or her certificate as a chiropractor's assistant. **Section 1** also provides that courses related to lifesaving skills such as cardiopulmonary resuscitation may be included in the 12 hours of continuing education required to be completed by a chiropractor's assistant and requires the Board to determine how many hours of such course work are required. **Section 1** further provides that the educational requirement may be waived by the Board if a chiropractor's assistant is prevented by a serious or disabling illness or physical disability from completing the educational requirement.

Under existing law, a ~~[license to practice chiropractic or a]~~ certificate as a chiropractor's assistant is valid for 2 years and must be renewed before January 1 of each odd-numbered year. (NRS 634.130) **Section 1** requires a ~~[license to practice chiropractic]~~ **certificate as a chiropractor's assistant** to be renewed before January 1 of each even-numbered year.

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

Section 1. NRS 634.130 is hereby amended to read as follows:

634.130 1. Licenses and certificates must be renewed biennially. Each person who is licensed pursuant to the provisions of this chapter must, upon the payment of the required renewal fee and the submission of all information required to complete the renewal, be granted a renewal certificate which authorizes the person to continue to practice for 2 years.

2. The renewal fee must be paid and all information required to complete the renewal must be submitted to the Board on or before January 1 of ~~[each odd-numbered year.]~~ *:*

(a) Each ~~[even-numbered]~~ odd-numbered year for a licensee; and

(b) Each ~~[odd-numbered]~~ even-numbered year for a holder of a certificate as a chiropractor's assistant.

3. Except as otherwise provided in subsection ~~[4,]~~ ***5 or 6,*** a licensee in active practice within this State must submit satisfactory proof to the Board that, during the 24 months immediately preceding the renewal date of the license, the licensee has attended at least 36 hours of continuing education which is approved or endorsed by the Board.

4. Except as otherwise provided in subsection 5 or 7, a holder of a certificate as a chiropractor's assistant in active practice within this State must submit satisfactory proof to the Board that, during the 24 months immediately preceding the renewal date of the certificate, the certificate holder has attended at least 12 hours of continuing education which is approved or endorsed by the Board or the equivalent board of another state or jurisdiction that regulates chiropractors' assistants. The continuing education required by this subsection may include education related to lifesaving skills, including, without limitation, a course in cardiopulmonary resuscitation. The Board shall by regulation determine how many of the

required 12 hours of continuing education must be course work related to such lifesaving skills. Any course of continuing education approved or endorsed by the Board or the equivalent board of another state or jurisdiction pursuant to this subsection may be conducted via the Internet or in a live setting, including, without limitation, a conference, workshop or academic course of instruction. The Board shall not approve or endorse a course of continuing education which is self-directed or conducted via home study.

5. The educational requirement of ~~[this section]~~ ***subsection 3 or 4*** may be waived by the Board if the licensee ***or holder of a certificate as a chiropractor's assistant*** files with the Board a statement of a chiropractic physician, osteopathic physician or doctor of medicine certifying that the licensee ***or holder of a certificate as a chiropractor's assistant*** is suffering from a serious or disabling illness or physical disability which prevented the licensee ***or holder of a certificate as a chiropractor's assistant*** from completing the requirements for continuing education during the 24 months immediately preceding the renewal date of the license.

~~[4.]~~ ***6.*** A licensee is not required to comply with the requirements of subsection 3 until the first odd-numbered ~~*[even-numbered]*~~ year after the year the Board issues to the licensee an initial license to practice as a chiropractor in this State.

~~[5.]~~ ***7. A certificate holder is not required to comply with the requirements of subsection 4 until the first*** ~~*[odd-numbered]*~~ ***even-numbered year after the Board issues to the certificate holder an initial certificate to practice as a chiropractor's assistant in this State.***

8. If a licensee fails to:

(a) Pay the renewal fee by January 1 of an odd-numbered ~~*[even-numbered]*~~ year;

(b) Submit proof of continuing education pursuant to subsection 3;

(c) Notify the Board of a change in the location of his or her office pursuant to NRS 634.129; or

(d) Submit all information required to complete the renewal,

➥ the license is automatically suspended and, except as otherwise provided in NRS 634.131, may be reinstated only upon the payment, by January 1 of the even-numbered ~~*[odd-numbered]*~~ year following the year in which the license was suspended, of the required fee for reinstatement in addition to the renewal fee.

~~[6.]~~ ***9.*** If a holder of a certificate as a chiropractor's assistant fails to:

(a) Pay the renewal fee by January 1 of an ~~[odd-numbered]~~ ***even-numbered*** year;

(b) ***Submit proof of continuing education pursuant to subsection 4;***

(c) Notify the Board of a change in the location of his or her office pursuant to NRS 634.129; or

~~[(c)]~~ ***(d)*** Submit all information required to complete the renewal,

➥ the certificate is automatically suspended and may be reinstated only upon the payment of the required fee for reinstatement in addition to the renewal fee.

Sec. 2. NRS 634.131 is hereby amended to read as follows:

634.131 1. If a license has been automatically suspended pursuant to the provisions of subsection ~~[5]~~ ***8*** of NRS 634.130 and not reinstated pursuant to the provisions of that subsection, the person who held the license may apply to the Board to have the license reinstated to active status.

2. An applicant to have a suspended license reinstated to active status pursuant to subsection 1 must:

(a) Either:

(1) Submit satisfactory evidence to the Board:

(I) That the applicant has maintained an active practice in another state, territory or country within the preceding 5 years;

(II) From all other licensing agencies which have issued the applicant a license that he or she is in good standing and has no legal actions pending against him or her; and

(III) That the applicant has participated in a program of continuing education in accordance with NRS 634.130 for the year in which he or she seeks to be reinstated to active status; or

(2) Score 75 percent or higher on an examination prescribed by the Board on the provisions of this chapter and the regulations adopted by the Board; and

(b) Pay:

(1) The fee for the biennial renewal of a license to practice chiropractic; and

(2) The fee for reinstating a license to practice chiropractic which has been suspended or revoked.

3. If any of the requirements set forth in subsection 2 are not met by an applicant for the reinstatement of a suspended license to active status, the Board, before reinstating the license of the applicant to active status:

(a) Must hold a hearing to determine the professional competency and fitness of the applicant; and

(b) May require the applicant to:

(1) Pass the Special Purposes Examination for Chiropractic prepared by the National Board of Chiropractic Examiners; and

(2) Satisfy any additional requirements that the Board deems to be necessary.

Sec. 2.5. Notwithstanding the amendatory provisions of sections 1 and 2 of this act:

1. A ~~[license to practice chiropractic]~~ **certificate as a chiropractor's assistant** issued or renewed on or after July 1, 2011, but before January 1, 2013, expires on December 31, 2013; and

2. The Chiropractic Physicians' Board of Nevada shall prorate the fee for any ~~[license to practice chiropractic]~~ **certificate as a chiropractor's**

assistant _ issued or renewed on or after July 1, 2011, but before January 1, 2013.

Sec. 3. This act becomes effective on July 1, 2011.

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 215.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 259.

The following Assembly amendment was read:

Amendment No. 654.

"SUMMARY—Revises provisions governing certain trust companies. (BDR 55-629)"

"AN ACT relating to trust companies; revising provisions governing the management of a trust by a family trust company or licensed family trust company; specifying the applicability of the Uniform Prudent Investor Act to a trust managed by a family trust company or licensed family trust company; authorizing a family trust company or licensed family trust company to engage in certain transactions involving the assets of the trust or take certain actions if the transaction or action is in the interest of the beneficiaries and complies with certain other requirements; authorizing a family trust company or licensed family trust company and an interested person to enter into a nonjudicial settlement agreement to resolve any matter related to the management, administration or interpretation of a trust; requiring a family trust company and licensed family trust company to provide an annual report or certain information in lieu of an annual report to certain persons concerning the management of a trust; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a trust company that has been appointed as the fiduciary of a trust to invest and manage the assets of the trust according to the Uniform Prudent Investor Act. (NRS 164.700-164.775) The prudent investor rule requires, among other things, that a fiduciary of a trust diversify the assets of the trust through various investments. (NRS 164.750) Existing law places further restrictions on the types of transactions that a trust company may engage in with the assets of a trust for which it is a fiduciary. (NRS 669A.230) **Section 15** of this bill provides an exception to the provisions of the Uniform Prudent Investor Act as it applies to the management of a trust by a family trust company or licensed family trust company. **Section 7** of this bill authorizes a family trust company or licensed family trust company to engage in activities and transactions involving the assets of a trust, including the acquisition of concentrated holdings of stocks, bonds, securities or other assets, which might otherwise be prohibited by the Uniform Prudent Investor Act. **Section 7** requires that such transactions or actions by a family trust company or licensed family trust company be for a

fair price, if applicable, be in the interest of the beneficiaries and comply with the terms of the trust, a written consent agreement, a court order or a notice of proposed action. Furthermore, the transactions authorized by **section 7** are not prohibited by a conflict of interest between the parties to the transaction.

Section 8 of this bill authorizes a family trust company or licensed family trust company and an interested person to enter into a nonjudicial settlement agreement with respect to any matter related to the management, administration or interpretation of a trust. **Section 8** also authorizes a family trust company or licensed family trust company or an interested person to petition a court to approve a nonjudicial settlement agreement or to make certain other determinations related to the nonjudicial settlement agreement. **Section 9** of this bill requires a family trust company or licensed family trust company that intends to execute a nonjudicial settlement agreement to meet certain notice requirements before executing the nonjudicial settlement agreement and also requires an interested person who receives such notice to object within a certain period to preserve the right to bring certain actions relating to the nonjudicial settlement agreement. **Section 9** also authorizes a family trust company or licensed family trust company or an interested person who timely objects to petition the court to approve, disapprove, enforce or modify the nonjudicial settlement agreement. **Section 10** of this bill authorizes a family trust company or licensed family trust company to refrain from taking an action that is authorized by a nonjudicial settlement agreement under certain circumstances.

Section 11 of this bill requires a family trust company and licensed family trust company to provide annual reports to certain persons outlining any transactions taken by the family trust company or licensed family trust company while acting as the fiduciary of a trust and further authorizes the trust company to provide an interested person with certain other information in lieu of an annual report.

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

Section 1. Chapter 669A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. ***"Interested person" means a person, other than the grantor of a trust, who is:***

1. A person who would be a necessary party to a judicial proceeding involving a trust; or

2. An authorized representative pursuant to NRS 164.038.

Sec. 3. ***Notwithstanding the provisions of any law to the contrary, a family trust company or licensed family trust company, or an employee or agent of a family trust company or licensed family trust company, is not liable to an interested person for any transaction, decision to act or decision to not act if the family trust company or licensed family trust company or employee or agent thereof acted in good faith and in***

reasonable reliance on the express terms of a trust instrument, a written consent agreement or a court order.

Sec. 4. ***Except as otherwise provided in this chapter or by specific statute, a family trust company or licensed family trust company is subject to the provisions of this chapter only to the extent that the family trust company or licensed family trust company is engaged in the business of a family trust company or licensed family trust company, respectively.***

Sec. 5. ***While acting as the fiduciary of a trust, a family trust company or licensed family trust company:***

1. Shall administer and manage the trust in accordance with the terms of the trust;

2. Shall administer and manage the trust in the interest of the beneficiaries of the trust;

3. Shall administer and manage the trust in accordance with the provisions of this chapter; and

4. May administer and manage the trust by the exercise of discretionary power of administration given to the fiduciary by the terms of the trust instrument.

Sec. 6. (Deleted by amendment.)

Sec. 7. ***1. In addition to the transactions authorized by NRS 669A.230 and notwithstanding the provisions of any other law to the contrary, while acting as the fiduciary of a trust, a family trust company or licensed family trust company may:***

(a) Invest in a security of an investment company or investment trust for which the family trust company or licensed family trust company, or a family affiliate, provides services in a capacity other than as a fiduciary;

(b) Place a security transaction using a broker that is a family affiliate;

(c) Invest in an investment contract that is purchased from an insurance company or carrier owned by or affiliated with the family trust company or licensed family trust company, or a family affiliate;

(d) Enter into an agreement with a beneficiary or grantor of a trust with respect to the appointment or compensation of the fiduciary or a family affiliate;

(e) Transact with another trust, estate, guardianship or conservatorship for which the family trust company or licensed family trust company is a fiduciary or in which a beneficiary has an interest;

(f) Make an equity investment in a closely held entity that may or may not be marketable and that is owned or controlled, either directly or indirectly, by one or more beneficiaries, family members or family affiliates;

(g) Deposit trust money in a financial institution that is owned or operated by a family affiliate;

(h) Delegate the authority to conduct any transaction or action pursuant to this section to an agent of the family trust company or licensed family trust company, or a family affiliate;

(i) Purchase, sell, hold, own or invest in any security, bond, real or personal property, stock or other asset of a family affiliate;

(j) Loan money to or borrow money from:

(1) A family member of the trust or his or her legal representative;

(2) Another trust managed by the family trust company or licensed family trust company; or

(3) A family affiliate;

(k) Act as proxy in voting any shares of stock which are assets of the trust;

(l) Exercise any powers of control with respect to any interest in a company that is an asset of the trust, including, without limitation, the appointment of officers or directors who are family affiliates; and

(m) Receive reasonable compensation for its services or the services of a family affiliate.

2. A transaction or action authorized pursuant to subsection 1 must:

(a) Be for a fair price, if applicable;

(b) Be in the interest of the beneficiaries; and

(c) Comply with:

(1) The terms of the trust instrument establishing the fiduciary relationship;

(2) A judgment, decree or court order;

(3) The written consent of each interested person; or

(4) A notice of proposed action issued pursuant to NRS 164.725.

3. Except as otherwise provided in subsection 2, nothing in this section prohibits a family trust company or licensed family trust company from transacting business with or investing in any asset of:

(a) A trust, estate, guardianship or conservatorship for which the family trust company or licensed family trust company is a fiduciary;

(b) A family affiliate; or

(c) Any other company, agent, entity or person for which a conflict of interest may exist.

4. A conflict of interest between the fiduciary duty and personal interest of a family trust company or licensed family trust company does not void a transaction or action that:

(a) Complies with the provisions of this section; or

(b) Occurred before the family trust company or licensed family trust company entered into a fiduciary relationship pursuant to a trust instrument.

5. A transaction by or action of a family trust company or licensed family trust company authorized by this section is not voidable if:

(a) The transaction or action was authorized by the terms of the trust;

(b) The transaction or action was approved by a court or pursuant to a court order;

(c) No interested person commenced a legal action relating to the transaction or action pursuant to subsection 6;

(d) The transaction or action was authorized by a valid consent agreement, release or pursuant to the issuance of a notice of proposed action issued pursuant to NRS 164.725; or

(e) The transaction or action occurred before the family trust company or licensed family trust company entered into a fiduciary relationship pursuant to a trust instrument.

6. A legal action by an interested person alleging that a transaction or action by a family trust company or licensed family trust company is voidable because of the existence of a conflict of interest must be commenced within 1 year after the date on which the interested person discovered, or by the exercise of due diligence should have discovered, the facts in support of his or her claim.

7. Notwithstanding the provisions of any other law to the contrary, a family trust company or licensed family trust company is not required to obtain court approval for any transaction that otherwise complies with the provisions of this section.

Sec. 8. *1. A family trust company or licensed family trust company and an interested person may enter into a nonjudicial settlement agreement with respect to any matter involving the management, administration or interpretation of a trust that is managed pursuant to this chapter.*

2. A nonjudicial settlement agreement that is entered into pursuant to this section must not contain:

(a) Terms that violate a material purpose of the trust; or

(b) Terms or conditions that could not be approved by a court.

3. The matters that may be resolved by a nonjudicial settlement agreement which is entered into pursuant to this section include, without limitation:

(a) Those pertaining to any transaction or action authorized pursuant to paragraphs (a) to (m), inclusive, of subsection 1 of section 7 of this act;

(b) The investment or use of trust assets;

(c) The lending or borrowing of money;

(d) The addition, deletion or modification of a term or condition of the trust;

(e) The interpretation or construction of a term or condition of the trust;

(f) The designation or transfer of the principal place of administration of the trust;

(g) The approval of a report or accounting that is provided pursuant to section 11 of this act;

(h) Direction to a fiduciary to refrain from performing a particular act or the grant to a fiduciary of any necessary or desirable power;

(i) The resignation or appointment of a fiduciary;

(j) The liability of a fiduciary for an action related to the management of the trust; and

(k) The termination of the trust.

4. After notice has been provided pursuant to section 9 of this act, a family trust company or licensed family trust company or an interested person may petition a court to approve a nonjudicial settlement agreement, to determine whether the nonjudicial settlement agreement was accurately represented to each interested person or to determine whether the nonjudicial settlement agreement contains terms or conditions that the court could approve. A family trust company or licensed family trust company is not liable to an interested person for taking an action that is authorized by a nonjudicial settlement agreement which has been approved by a court.

Sec. 9. ***1. A family trust company or licensed family trust company shall provide written notice by personal service or by certified mail to each interested person who is a necessary party to a nonjudicial settlement agreement entered into pursuant to section 8 of this act. A family trust company or licensed family trust company is not required to provide notice to any interested person who has consented in writing to the nonjudicial settlement agreement.***

2. The notice provided pursuant to this section must:

(a) Be provided at least 15 days before the execution of the nonjudicial settlement agreement;

(b) Include a true and correct copy of the nonjudicial settlement agreement;

(c) State that the notice is provided pursuant to this section and section 8 of this act;

(d) State the name and mailing address of the family trust company or licensed family trust company;

(e) State the date by which an objection to the nonjudicial settlement agreement must be made; and

(f) State the date on which the nonjudicial settlement agreement is to be executed.

3. An interested person who receives notice pursuant to this section may object to any term or condition of, or any act that is authorized by, the nonjudicial settlement agreement by submitting his or her objection in writing to the family trust company or licensed family trust company within 1 year after the date on which the interested person received the notice. Except as otherwise provided in subsection 5, if an interested person does not object within 1 year after receiving notice, his or her objection is waived, and the interested person may not bring any action relating to the terms and conditions of, or any act taken pursuant to, the nonjudicial settlement agreement.

4. An interested person who objects within the period specified in subsection 3 may petition the court for an order to approve, disapprove, enforce or modify the nonjudicial settlement agreement. The burden is on the interested person to prove that the nonjudicial settlement agreement should be approved, disapproved, enforced or modified.

5. The provisions of subsection 3 do not prohibit an interested person who has received notice pursuant to this section and who fails to object to the nonjudicial settlement agreement within 1 year after receiving the notice from bringing an action alleging that the nonjudicial settlement agreement was procured fraudulently, or entered into by the family trust company or licensed family trust company in bad faith or in willful violation of the terms of the trust. A person who brings such an action has the burden of proving by clear and convincing evidence that the nonjudicial settlement agreement was procured fraudulently, in bad faith or in willful violation of the terms of the trust.

6. Except as otherwise provided in subsection 5, if no interested person who is entitled to receive notice pursuant to this section objects to the nonjudicial settlement agreement within 1 year after receiving the notice, a family trust company or licensed family trust company is not liable to any interested person for taking any action that is authorized by the nonjudicial settlement agreement.

Sec. 10. *1. A family trust company or licensed family trust company may refrain from taking an action that is authorized by a nonjudicial settlement agreement if the family trust company or licensed family trust company determines in good faith that the action is not in the interest of the beneficiaries of the trust.*

2. A family trust company or licensed family trust company that refrains from taking an action pursuant to subsection 1 shall provide written notice to each interested person within 15 days after its decision not to take the action and include in the notice the reasons for not taking the action.

3. An interested person who receives notice pursuant to subsection 2 may petition the court for an order requiring the family trust company or licensed family trust company to take the action authorized by the nonjudicial settlement agreement. The burden is on the beneficiary to prove that the proposed action is in the interest of the beneficiaries of the trust and should be taken.

4. A family trust company or licensed family trust company is not liable to an interested person for not taking an action that is authorized by a nonjudicial settlement agreement if the family trust company or licensed family trust company acted in good faith in not taking the action.

Sec. 11. *1. Except as otherwise provided in subsection 4, a family trust company or licensed family trust company, while acting as the fiduciary of a trust, shall provide an annual report to each interested person for each year of the existence of the trust until the trust is terminated, at which time the trust company shall provide to each interested person a final report.*

2. A report that is provided pursuant to this section must, for the year immediately preceding the report, provide an accounting of:

(a) Each asset and liability of the trust and its current market value or amount, if known;

(b) Each disbursement of income or principal, including the amount of the disbursement and to whom the disbursement was made;

(c) All payments of compensation from any source to the family trust company or licensed family trust company or any other person for services rendered; and

(d) Any other transaction involving an asset of the trust.

3. An interested person who is entitled to a report pursuant to this section may waive his or her right to the report by submitting a written waiver to the family trust company or licensed family trust company. An interested person who waives his or her right to a report may withdraw the waiver by submitting to the family trust company or licensed family trust company a written request for a report.

4. A family trust company or licensed family trust company is not required to provide a report pursuant to this section if the terms of the trust provide an exception to this requirement.

5. A family trust company or licensed family trust company may require an interested person who is entitled to receive confidential information pursuant to this section to execute a confidentiality agreement before providing the person with any confidential information.

6. In lieu of the information that a trustee is required to provide to an interested person pursuant to subsection 2, a trustee may provide to an interested person a statement indicating the accounting period and a financial report of the trust which is prepared by a certified public accountant and which summarizes the information required by paragraphs (a) to (d), inclusive, of subsection 2. Upon request, the trustee shall make all the information used in the preparation of the financial report available to each interested person who was provided a copy of the financial report pursuant to this subsection.

7. For the purposes of this chapter, information provided by a trustee to an interested person pursuant to subsection 6 is deemed an annual report.

8. A trustee may provide an annual report to an interested person via electronic mail or through a secure Internet website.

Sec. 12. NRS 669A.020 is hereby amended to read as follows:

669A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 669A.030 to 669A.090, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 13. NRS 669A.060 is hereby amended to read as follows:

669A.060 "Family affiliate" means a company or other entity with respect to which ~~[a]~~ ***one or more*** family ~~[member possesses,]~~ ***members or affiliates own, directly or indirectly, a material interest in the company or entity, or possess,*** directly or indirectly, the power to direct or cause the direction of the management and policies of that company or entity, whether

through the ownership of voting securities, by contract, power of direction or otherwise.

Sec. 13.5. NRS 669A.230 is hereby amended to read as follows:

669A.230 1. Except as otherwise provided in subsection 2, the assets forming the minimum capital of a licensed family trust company pursuant to NRS 669A.160 must:

(a) Consist of:

(1) Cash;

(2) Governmental obligations or insured deposits that mature within 3 years after acquisition;

(3) Readily marketable securities or other liquid, secure assets, bonds, sureties or insurance; or

(4) Any combination thereof.

(b) Have an aggregate market value that equals or exceeds 100 percent of the company's required stockholders' equity.

2. A licensed family trust company may purchase or rent real or personal property for use in the conduct of the business and other activities of the company.

3. ~~[Notwithstanding]~~ ***Except as otherwise provided in section 7 of this act, and notwithstanding*** any other provisions of law to the contrary, a licensed family trust company may invest its funds for its own account, other than those required or permitted to be maintained by subsection 1 or 2, in any type or character of equity securities, debt securities or other asset provided the investment complies with the prudent investor standards set forth in NRS 164.700 to 164.775, inclusive.

4. ~~[Notwithstanding]~~ ***Except as otherwise provided in section 7 of this act and notwithstanding*** the provisions of any other law to the contrary, a family trust company is authorized while acting as a fiduciary to purchase for the fiduciary estate, directly from underwriters or distributors or in the secondary market:

(a) Bonds or other securities underwritten or distributed by the family trust company or an affiliate thereof or by a syndicate which includes the family trust company, provided that the family trust company discloses in any written communication or account statement reflecting the purchase of those bonds or securities the nature of the interest of the family trust company in the underwriting or distribution of those bonds and securities and whether the family trust company received any fee in connection with the purchase; and

(b) Securities of any investment company ~~[as defined under the Investment Company Act of 1940]~~ for which the family trust company acts as advisor, custodian, distributor, manager, registrar, shareholder servicing agent, sponsor or transfer agent, or provided the family trust company discloses in any written communication or account statement reflecting the purchase of the securities the nature of the relationship and whether the family trust company received any fee for providing those services.

5. ~~[The]~~ ***Except as otherwise provided in section 7 of this act, the*** authority granted in subsection 4 may be exercised only if:

(a) The investment is not expressly prohibited by the instrument, judgment, decree or order establishing the fiduciary relationship;

(b) The family trust company discloses in writing to the person or persons to whom it sends account statements its intent to exercise the authority granted in subsection 4 before the first exercise of that authority; and

(c) The family trust company procures in writing the consent of its cofiduciaries with discretionary investment powers, if any, to the investment.

6. ~~[A]~~ ***Except as otherwise provided in section 7 of this act, a*** family trust company may:

(a) Invest in the securities of an investment company ~~[as defined under the federal Investment Company Act of 1940]~~ or investment trust, to which the family trust company or its affiliate provides services in a capacity other than as trustee. The investment is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor standards set forth in NRS 164.700 to 164.775, inclusive.

(b) Be compensated by an investment company or investment trust described in paragraph (a) for providing services in a capacity other than as trustee if the family trust company discloses at least annually to each person to whom it sends account statements the rate and method by which the compensation was determined.

7. ~~[Nothing]~~ ***Except as otherwise provided in section 7 of this act, nothing*** in subsections 4, 5 and 6 shall affect the degree of prudence which is required of fiduciaries under the laws of this State. Any bonds or securities purchased under authority of this section are not presumed to be affected by a conflict between the fiduciary's personal and fiduciary interest if the purchase of the bonds or securities:

(a) Is at a fair price;

(b) Is in accordance with:

(1) The interest of the beneficiaries; and

(2) The purposes of the trusts; and

(c) Complies with:

(1) The prudent investor standards set forth in NRS 164.700 to 164.775, inclusive; and

(2) The terms of the instrument, judgment, decree or order establishing the fiduciary relationship.

8. ~~[Notwithstanding]~~ ***Except as otherwise provided in section 7 of this act and notwithstanding*** the provisions of subsections 4 to 7, inclusive, a family trust company which is authorized to exercise trust powers in this State and which is acting as a fiduciary shall not purchase for the fiduciary estate any fixed income or equity security issued by the family trust company or an affiliate thereof unless:

(a) The family trust company is expressly authorized to do so by:

(1) The terms of the instrument creating the trust;

(2) A court order;

(3) The written consent of the grantor of the trust; or

(4) The written consent of every adult beneficiary of the trust who, at the time notice is provided pursuant to paragraph (b) of subsection 5, receives or is entitled to receive income under the trust or who would be entitled to receive a distribution of principal if the trust were terminated; or

(b) The purchase of the security:

(1) Is at a fair price; and

(2) Complies with:

(I) The prudent investor standards set forth in NRS 164.700 to 164.775, inclusive; and

(II) The terms of the instrument, judgment, decree or order establishing the fiduciary relationship.

9. As used in this section:

(a) "Face-amount certificate" has the meaning ascribed to it in 15 U.S.C. § 80a-2(a)(15).

(b) "Government securities" has the meaning ascribed to it in 15 U.S.C. § 80a-2(a)(16).

(c) "Investment company" means any issuer which:

(1) Is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities;

(2) Is engaged or proposes to engage in the business of issuing face-amount certificates of the installment type, or has been engaged in such business and has any such certificate outstanding; or

(3) Is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of the total assets of the issuer, exclusive of government securities and cash items, on an unconsolidated basis.

(d) "Issuer" has the meaning ascribed to it in 15 U.S.C. § 80a-2(a)(22).

Sec. 14. NRS 90.250 is hereby amended to read as follows:

90.250 "Investment adviser" means any person who, for compensation, engages in the business of advising others as to the value of securities or as to the advisability of investing in, purchasing or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. The term does not include:

1. An employee of an adviser;

2. A depository institution;

3. A lawyer, accountant, engineer or teacher whose performance of investment advisory services is solely incidental to the practice of the person's profession;

4. A broker-dealer whose performance of investment advisory services is solely incidental to the conduct of business as a broker-dealer and who receives no special compensation for the investment advisory services;

5. A publisher, employee or columnist of a newspaper, news magazine or business or financial publication, or an owner, operator, producer or employee of a cable, radio or television network, station or production facility if, in either case, the financial or business news published or disseminated is made available to the general public and the content does not consist of rendering advice on the basis of the specific investment situation of each client;

6. A person whose advice, analyses or reports relate only to securities exempt under paragraph (a) of subsection 2 of NRS 90.520; ~~[or]~~

7. ***A family trust company or licensed family trust company or an employee or agent of a family trust company or licensed family trust company that is engaged in the business of a family trust company or licensed family trust company pursuant to chapter 669A of NRS, and that is exempt from registration as an investment adviser pursuant to the federal Investment Advisers Act of 1940; or***

8. Any other person the Administrator by regulation or order designates.

Sec. 15. NRS 164.740 is hereby amended to read as follows:

164.740 ~~[A]~~ ***Except as otherwise provided in chapter 669A of NRS, a*** trustee who invests and manages trust property owes a duty to the beneficiaries of the trust to comply with the prudent investor rule as set forth in NRS 164.700 to 164.775, inclusive, but a trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the terms of the trust.

Sec. 16. **This act becomes effective upon passage and approval.**

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 259.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 267.

The following Assembly amendment was read:

Amendment No. 858.

SUMMARY—Revises provisions governing personal information. (BDR 52-110)

AN ACT relating to personal information; **authorizing the Office of Information Security of the Department of Information Technology to adopt certain regulations relating to encryption;** revising provisions governing the protection of personal information collected by a data collector; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a data collector from moving any data storage device containing personal information beyond the control of the data collector or its data storage contractor unless the data collector uses encryption to ensure the security of the information. (NRS 603A.215) **Section 5.5 of this bill authorizes the Office of Information Security of**

the Department of Information Technology, upon receipt of a well-founded petition, to adopt regulations which identify alternative methods or technologies which may be used by a data collector to encrypt certain data. **Section 6** of this bill additionally prohibits a data collector from moving a data storage device which is used by or is a component of a multifunctional device beyond the control of the data collector, its data storage contractor or a person who assumes the obligation of the data collector to protect personal information unless the data collector uses encryption to ensure the security of the information.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.5. **Chapter 603A of NRS is hereby amended by adding thereto a new section to read as follows:**

Upon receipt of a well-founded petition, the Office of Information Security of the Department of Information Technology may, pursuant to chapter 233B of NRS, adopt regulations which identify alternative methods or technologies which may be used to encrypt data pursuant to NRS 603A.215.

Sec. 6. NRS 603A.215 is hereby amended to read as follows:

603A.215 1. If a data collector doing business in this State accepts a payment card in connection with a sale of goods or services, the data collector shall comply with the current version of the Payment Card Industry (PCI) Data Security Standard, as adopted by the PCI Security Standards Council or its successor organization, with respect to those transactions, not later than the date for compliance set forth in the Payment Card Industry (PCI) Data Security Standard or by the PCI Security Standards Council or its successor organization.

2. A data collector doing business in this State to whom subsection 1 does not apply shall not:

(a) Transfer any personal information through an electronic, nonvoice transmission other than a facsimile to a person outside of the secure system of the data collector unless the data collector uses encryption to ensure the security of electronic transmission; or

(b) Move any data storage device containing personal information beyond the logical or physical controls of the data collector ***,*** ~~[or]~~ its data storage contractor ***or, if the data storage device is used by or is a component of a multifunctional device, a person who assumes the obligation of the data collector to protect personal information,*** unless the data collector uses encryption to ensure the security of the information.

3. A data collector shall not be liable for damages for a breach of the security of the system data if:

(a) The data collector is in compliance with this section; and

(b) The breach is not caused by the gross negligence or intentional misconduct of the data collector, its officers, employees or agents.

4. The requirements of this section do not apply to:

(a) A telecommunication provider acting solely in the role of conveying the communications of other persons, regardless of the mode of conveyance used, including, without limitation:

(1) Optical, wire line and wireless facilities;

(2) Analog transmission; and

(3) Digital subscriber line transmission, voice over Internet protocol and other digital transmission technology.

(b) Data transmission over a secure, private communication channel for:

(1) Approval or processing of negotiable instruments, electronic fund transfers or similar payment methods; or

(2) Issuance of reports regarding account closures due to fraud, substantial overdrafts, abuse of automatic teller machines or related information regarding a customer.

5. As used in this section:

(a) "Data storage device" means any device that stores information or data from any electronic or optical medium, including, but not limited to, computers, cellular telephones, magnetic tape, electronic computer drives and optical computer drives, and the medium itself.

(b) "Encryption" means the protection of data in electronic or optical form, in storage or in transit, using:

(1) An encryption technology that has been adopted by an established standards setting body, including, but not limited to, the Federal Information Processing Standards issued by the National Institute of Standards and Technology, which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; ~~[and]~~

(2) Appropriate management and safeguards of cryptographic keys to protect the integrity of the encryption using guidelines promulgated by an established standards setting body, including, but not limited to, the National Institute of Standards and Technology ~~[.]~~ ***; and***

(3) Any other technology or method identified by the Office of Information Security of the Department of Information Technology in regulations adopted pursuant to section 5.5 of this act.

(c) "Facsimile" means an electronic transmission between two dedicated fax machines using Group 3 or Group 4 digital formats that conform to the International Telecommunications Union T.4 or T.38 standards or computer modems that conform to the International Telecommunications Union T.31 or T.32 standards. The term does not include onward transmission to a third

device after protocol conversion, including, but not limited to, any data storage device.

(d) ***"Multifunctional device" means a machine that incorporates the functionality of devices, which may include, without limitation, a printer, copier, scanner, facsimile machine or electronic mail terminal, to provide for the centralized management, distribution or production of documents.***

(e) "Payment card" has the meaning ascribed to it in NRS 205.602.

~~[(e)]~~ ***(f)*** "Telecommunication provider" has the meaning ascribed to it in NRS 704.027.

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 267.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 289.

The following Assembly amendment was read:

Amendment No. 855.

"SUMMARY—Makes various changes relating to insurance. (BDR 57-521)"

"AN ACT relating to insurance; revising provisions relating to nonadmitted insurance; authorizing the Commissioner of Insurance to enter ~~[the Nonadmitted Insurance Multi-State Agreement;]~~ **into a multi-state agreement concerning nonadmitted insurance;** revising provisions relating to the assessment and disbursement of taxes on nonadmitted insurance; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, certain insurance coverages that cannot be procured from authorized insurers in Nevada, known as surplus lines, may be obtained from unauthorized insurers if certain conditions are met. (NRS 685A.040) Additionally, a tax is assessed on the premiums charged for surplus lines coverages. (NRS 685A175, 685A.180) On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act, of which the Nonadmitted and Reinsurance Reform Act (NRRA) was a part, was signed into law. (Pub. L. No. 111-203, 124 Stat. 1376) The NRRA authorizes the states to participate in a multi-state agreement to allocate premium tax proceeds for nonadmitted insurance on multi-state risks amongst the states and prohibits any state other than the insured's home state from collecting premium taxes on nonadmitted insurance. The NRRA also prohibits any state other than the insured's home state from regulating the placement of nonadmitted insurance and from requiring a surplus lines broker to be licensed. (15 U.S.C. §§ 8201 et seq.)

This bill makes various changes to existing law to conform to the NRRA. **Sections 17, 32 and 33** of this bill authorize the Commissioner to enter into ~~[the Nonadmitted Insurance Multi-State Agreement]~~ **a multi-state agreement concerning nonadmitted insurance** and to provide for the

payment of premium tax to and disbursement of premium tax from the clearinghouse established through the ~~[Nonadmitted Insurance Multi-State Agreement.]~~ **multi-state agreement.**

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

Section 1. NRS 680B.040 is hereby amended to read as follows:

680B.040 1. Every insured ~~[in]~~ ***for whom*** this State ***is the home state as defined in section 8 of this act*** who procures or causes to be procured or continues or renews insurance in an unauthorized alien or foreign insurer, or any self-insurer in this State who ~~[so]~~ procures or continues excess loss, catastrophe or other insurance, ~~[upon a subject of insurance resident, located or to be performed within this State,]~~ other than insurance procured through a surplus line broker pursuant to chapter 685A of NRS or exempted from that chapter, shall within ~~[30]~~ ***45*** days after the ~~[date]~~ ***end of each quarter in which*** such insurance was so procured, continued or renewed, file a written report ~~[with the Department of Taxation on forms prescribed by the Executive Director of the Department of Taxation in cooperation with]~~ ***as directed by*** the Commissioner ***pursuant to chapter 685A of NRS*** and furnished to such an insured upon request. The report must show:

(a) The name and address of the insured or insureds.

(b) The name and address of the insurer.

(c) The subject of the insurance.

(d) A general description of the coverage.

(e) The premium currently charged therefor.

(f) Such additional pertinent information as is reasonably requested by the Commissioner or the ~~[Executive Director of the Department of Taxation.]~~ ***designee of the Commissioner.***

➥ If any such insurance covers also a subject of insurance resident, located or to be performed outside of this State ~~[,]~~ ***for which this State is the home state of the insured as defined in section 8 of this act,*** for the purposes of this section a proper pro rata portion of the entire premium payable for all such insurance must be allocated ~~[as to the subjects of insurance resident, located or to be performed in this State.]~~ ***and disbursed pursuant to the provisions of chapter 685A of NRS.***

2. ~~[Any insurance in an unauthorized insurer procured through negotiations or an application in whole or in part occurring or made within or from within this State, or for which premiums in whole or in part are remitted directly or indirectly from within this State, shall be deemed to be insurance procured or continued or renewed in this State within the intent of subsection 1.~~

~~3.]~~ For the general support of the government of this State there is levied upon the obligation, chose in action or right represented by the premium charged or payable for such insurance a tax at the rate prescribed in NRS ~~[680B.027.]~~ ***685A.175 and 685A.180.*** The insured shall withhold the amount of the tax from the amount of premium charged by and otherwise

payable to the insurer for such insurance, and within 30 days after the insurance was so procured, continued or renewed, and coincidentally with the filing of the report provided for in subsection 1, the insured shall pay the amount of the tax ~~[to the State Treasurer through the Department of Taxation.~~

~~4.]~~ ***as directed by the Commissioner***

3. If the insured fails to withhold from the premium the amount of tax levied in this section, the insured is liable for the amount of the tax and shall pay it ~~[to the Department of Taxation]~~ ***as directed by the Commissioner*** within the time stated in subsection ~~[3.~~

~~5.]~~ ***2.***

4. If the insured fails to pay the tax imposed by this section, the insured shall in addition to any other applicable penalty pay a penalty of not more than 10 percent of the amount of the tax which is owed, as determined by the Department of Taxation, in addition to the tax, plus interest at the rate of 1.5 percent per month, or fraction of a month, from the date on which the tax should have been paid until the date of payment.

~~[6.]~~ ***5.*** The tax is collectible from the insured by civil action brought by the Department of Taxation, and by the seizure, distraint and sale of any property of the insured situated in this State.

~~[7.]~~ ***6.*** This section does not abrogate or modify any other provision of this Code.

~~[8.]~~ ***7.*** This section does not apply to life or disability insurances.

~~[9.]~~ ***8.*** The provisions of this section do not prohibit the procurement of insurance from an unauthorized alien or foreign insurer by a person in accordance with the requirements of subsection 9 of NRS 680A.070.

~~[10. The Department of Taxation shall report to the Commissioner concerning independently procured insurance transactions reported to the Department of Taxation pursuant to this section.]~~

Sec. 2. NRS 680C.110 is hereby amended to read as follows:

680C.110 1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.

2. A fee required by this section must be:

(a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;

(b) If an annual fee, paid on or before March 1 of every year;

(c) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and

(d) Deposited in the Fund for Insurance Administration and Enforcement created by NRS 680C.100.

3. The fees required pursuant to this section are not refundable.

4. The following fees must be paid by the following persons to the Commissioner:

(a) Associations of self-insured private employers, as defined in NRS 616A.050:
(1) Initial fee $1,300
(2) Annual fee $1,300
(b) Associations of self-insured public employers, as defined in NRS 616A.055:
(1) Initial fee $1,300
(2) Annual fee $1,300
(c) External review organizations, as provided for in NRS 616A.469 or 683A.371, or both:
(1) Initial fee $60
(2) Annual fee $60
(d) Insurers not otherwise provided for in this subsection:
(1)Initial fee $1,300
(2) Annual fee $1,300
(e) Producers of insurance, as defined in NRS 679A.117:
(1) Initial fee $60
(2) Triennial fee $60
(f) Accredited reinsurers, as provided for in NRS 681A.160:
(1) Initial fee $1,300
(2) Annual fee $1,300
(g) Intermediaries, as defined in NRS 681A.330:
(1) Initial fee $60
(2) Triennial fee $60
(h) Reinsurers, as defined in NRS 681A.370:
(1) Initial fee $1,300
(2) Annual fee $1,300
(i) Administrators, as defined in NRS 683A.025:
(1) Initial fee $60
(2) Triennial fee $60
(j) Managing general agents, as defined in NRS 683A.060:
(1) Initial fee $60
(2) Triennial fee $60
(k) Agents who perform utilization reviews, as defined in NRS 683A.376:
(1) Initial fee $60
(2) Annual fee $60
(l) Insurance consultants, as defined in NRS 683C.010:
(1) Initial fee $60
(2) Triennial fee $60
(m) Independent adjusters, as defined in NRS 684A.030:
(1) Initial fee $60
(2) Triennial fee $60
(n) Public adjusters, as defined in NRS 684A.030:
(1) Initial fee $60
(2) Triennial fee $60

(o) Associate adjusters, as defined in NRS 684A.030:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(p) Motor vehicle physical damage appraisers, as defined in NRS 684B.010:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(q) Brokers, as defined in ~~[NRS 685A.030:]~~ ***section 5 of this act:***
(1) Initial fee.....$60
(2) Triennial fee.....$60
(r) Eligible surplus line insurers, as provided for in NRS 685A.070:
(1)Initial fee.....$1,300
(2) Annual fee.....$1,300
(s) Companies, as defined in NRS 686A.330:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(t) Rate service organizations, as defined in NRS 686B.020:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(u) Brokers of viatical settlements, as defined in NRS 688C.030:
(1) Initial fee.....$60
(2) Annual fee.....$60
(v) Providers of viatical settlements, as defined in NRS 688C.080:
(1) Initial fee.....$60
(2) Annual fee.....$60
(w) Agents for prepaid burial contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(x) Agents for prepaid funeral contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(y) Sellers of prepaid burial contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(z) Sellers of prepaid funeral contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(aa) Providers, as defined in NRS 690C.070:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(bb) Escrow officers, as defined in NRS 692A.028:

(1) Initial fee.....$60
(2) Triennial fee.....$60
(cc) Title agents, as defined in NRS 692A.060:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(dd) Captive insurers, as defined in NRS 694C.060:
(1) Initial fee.....$250
(2) Annual fee.....$250
(ee) Fraternal benefit societies, as defined in NRS 695A.010:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(ff) Insurance agents for societies, as provided for in NRS 695A.330:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(gg) Corporations subject to the provisions of chapter 695B of NRS:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(hh) Health maintenance organizations, as defined in NRS 695C.030:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(ii) Organizations for dental care, as defined in NRS 695D.060:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(jj) Purchasing groups, as defined in NRS 695E.100:
(1) Initial fee.....$250
(2) Annual fee.....$250
(kk) Risk retention groups, as defined in NRS 695E.110:
(1) Initial fee.....$250
(2) Annual fee.....$250
(ll) Prepaid limited health service organizations, as defined in NRS 695F.050:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(mm) Medical discount plans, as defined in NRS 695H.050:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(nn) Club agents, as defined in NRS 696A.040:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(oo) Motor clubs, as defined in NRS 696A.050:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(pp) Bail agents, as defined in NRS 697.040:
(1) Initial fee.....$60
(2) Triennial fee.....$60

(qq) Bail enforcement agents, as defined in NRS 697.055:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(rr) Bail solicitors, as defined in NRS 697.060:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(ss) General agents, as defined in NRS 697.070:
(1) Initial fee.....$60
(2) Triennial fee.....$60

Sec. 3. NRS 683A.321 is hereby amended to read as follows:

683A.321 1. A producer of insurance shall not act as an agent unless he or she is appointed as an agent by the insurer. A producer who is not acting as an agent is a broker who does not need to be appointed.

2. To appoint a producer of insurance as its agent, an insurer must file, in a form approved by the Commissioner, a notice of appointment within 15 days after the contract is executed or the first application for insurance is submitted. An insurer may appoint a producer to act as agent for all or some insurers within its holding company or group by filing a single notice of appointment. A notice of appointment may include several agents.

3. Upon receipt of a notice of appointment, the Commissioner shall determine within 30 days whether the producer of insurance is eligible for appointment. If the producer of insurance is not, the Commissioner shall so notify the insurer within 5 days after the determination is made.

4. An insurer shall pay an appointment fee and remit an annual renewal fee for each producer of insurance appointed as its agent. A payment or remittance may include fees for several agents.

5. A broker shall not place insurance, other than life insurance, health insurance, annuity contracts or coverage written pursuant to the ~~[Surplus Lines]~~ ***Nonadmitted Insurance*** Law set forth in chapter 685A of NRS, that covers property or risks within this state unless the broker does so with a licensed agent of an authorized insurer.

6. A producer who is acting as an agent may also act as and be a broker with regard to insurers for which he or she is not acting as an agent. The sole relationship between an insurer and a broker who is appointed as an agent by the insurer as to any transactions arising during the period in which the broker is appointed as an agent is that of insurer and agent, and not insurer and broker.

7. As used in this section:

(a) "Agent" means a producer of insurance who is compensated by the insurer and sells, solicits or negotiates insurance for the insurer.

(b) "Broker" means a producer of insurance who:

(1) Is not an agent of an insurer;

(2) Solicits, negotiates or procures insurance on behalf of an insured or prospective insured; and

(3) Does not have the power, by his or her own actions as a broker, to obligate an insurer upon any risk or with reference to any transaction of insurance.

Sec. 4. Chapter 685A of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 17, inclusive, of this act.

Sec. 5. ***"Broker" means a surplus lines broker duly licensed as such under this chapter.***

Sec. 6. *1.* ***"Exempt commercial purchaser" means any person or political subdivision of this State purchasing commercial insurance:***

(a) Who, at the time of placement, employs or retains a qualified risk manager to negotiate insurance coverage;

(b) Who, at the time of placement, has paid aggregate nationwide commercial property and casualty insurance premiums of more than $100,000 in the immediately preceding 12 months; and

(c) Who, at the time of placement, satisfies one of the following conditions:

(1) Possesses a net worth of more than $20,000,000;

(2) Generates annual revenues of more than $50,000,000;

(3) Employs more than 500 full-time or full-time equivalent employees or is a member of an affiliated group that employs more than 1,000 employees in the aggregate;

(4) Is a nonprofit organization or public entity that generates annual budgeted expenditures of $30,000,000 or more; or

(5) Is a city whose population is 25,000 or more or a county whose population is 20,000 or more.

2. The amounts set forth in subparagraphs (1), (2) and (4) of paragraph (c) of subsection 1 must be adjusted on or before January 1, 2015, and every 5 years thereafter to reflect inflation, as measured by the average percentage of increase or decrease in the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics for the preceding 5 years. The Commissioner shall determine the amount of the increase or decrease required by this subsection and establish the adjusted amounts to take effect on January 1 of that year.

Sec. 7. ***"Export" means to place insurance in an unauthorized insurer under this chapter.***

Sec. 8. ***"Home state" means:***

1. For an insured:

(a) The state in which the insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or

(b) If 100 percent of the insured risk is located outside of the state determined pursuant to paragraph (a), the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

2. If more than one insured from an affiliated group is a named insured on a single nonadmitted insurance contract, the state determined pursuant to paragraph (a) of subsection 1 for the member of the affiliated group that has the largest percentage of premium attributed to it under the nonadmitted insurance contract.

3. For a policy of group insurance:

(a) If the group policyholder pays 100 percent of the premium from its own funds, the state determined pursuant to paragraph (a) of subsection 1 for the group policyholder.

(b) If the group policyholder does not pay 100 percent of the premium from its own funds, the state determined pursuant to paragraph (a) of subsection 1 for the group member.

Sec. 9. *"Independently procured insurance" means insurance procured directly by an insured from a nonadmitted insurer.*

Sec. 10. *"Multi-state risk" means a risk covered by a nonadmitted insurer to which the insured is exposed in more than one state.*

Sec. 11. *"Nonadmitted insurance" means any property and casualty insurance permitted to be placed directly or through a broker with a nonadmitted insurer eligible to accept such insurance. The term includes both independently procured insurance and surplus lines insurance.*

Sec. 12. *"Nonadmitted insurer" means an insurer not authorized to engage in the business of insurance in this State. The term does not include a risk retention group as that term is defined in 15 U.S.C. § 3901(a)(4).*

Sec. 13. *"Principal place of business" means, for the purpose of determining the home state of the insured:*

1. The state where the insured maintains its headquarters and where the insured's high-level officers direct, control and coordinate its business activities;

2. If the insured's high-level officers direct, control and coordinate its business activities in more than one state, the state in which the greatest percentage of the insured's taxable premium for that insurance contract is allocated; or

3. If the insured's high-level officers direct, control and coordinate its business activities outside of any state, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

Sec. 14. *"Principal residence" means, for the purpose of determining the home state of the insured:*

1. The state where the insured resides for the greatest number of days during a calendar year; or

2. If the insured's principal residence is located outside of any state, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

Sec. 15. *"Surplus lines insurance" means insurance procured by an insured through a broker with a nonadmitted insurer eligible to accept such insurance.*

Sec. 16. *Except as otherwise provided in NRS 685A.020, this chapter applies to nonadmitted insurance.*

Sec. 17. *1. The Commissioner may, with the approval of the State Board of Examiners, on behalf of the State [,] enter into [the Nonadmitted Insurance Multi-State Agreement or any other] a multi-state agreement to preserve the ability of this State to collect premium tax on multi-state risks.*

2. If , within 18 months after the Commissioner enters into [an] a multi-state agreement pursuant to subsection 1, the Commissioner [shall:

(a) Adopt the agreement by regulation as soon as is practicable after entering into the agreement; and

(b) Submit] conducts a hearing pursuant to the provisions of chapter 233B of NRS concerning participation in the multi-state agreement, the Commissioner shall submit to the State Board of Examiners and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report [stating that] concerning the findings of the Commissioner [has entered into such an agreement and including the contents of the agreement.] pursuant to the hearing.

3. The State Board of Examiners shall review and may accept the findings of the Commissioner. If the Commissioner finds and the State Board of Examiners accepts that because of the effect of the multi-state agreement on the gross receipt of premiums collected in this State:

(a) It is in the best interest of the State to continue to participate in the multi-state agreement, the State Board of Examiners may approve the State's continued participation in the multi-state agreement.

(b) It is not in the best interest of the State to continue to participate in the multi-state agreement, the State Board of Examiners may approve the State's withdrawal from the multi-state agreement.

Sec. 18. *The Commissioner [shall] may adopt regulations as necessary [:*

1. To effectuate the Nonadmitted Insurance Multi-State Agreement or any other multi-state agreement for the purposes of complying with federal law, facilitating the collection, allocation and disbursement of premium taxes attributable to the placement of nonadmitted insurance, providing for a uniform method of allocation and reporting among nonadmitted insurance risk classifications and sharing information among states relating to nonadmitted insurance premium taxes.

2. For participation in the clearinghouse established through the Nonadmitted Insurance Multi-State Agreement or any other such multi-state agreement for the purposes of collecting and disbursing to states any funds collected as the home state and applicable to properties, risks or exposures located or to be performed outside of this State. To the extent that a portion of the properties, risks or exposures are located or to be performed in a state

~~*that has failed to enter the Nonadmitted Insurance Multi-State Agreement or any other such multi-state agreement, the net premium tax collected must be retained by this State.*~~

~~*3. For adoption of the allocation schedule established through the Nonadmitted Insurance Multi-State Agreement or any other such multi-state agreement for the purpose of allocating risk and computing the tax due on the portion of the premium attributable to each risk classification and to each state where properties, risks or exposures are located.*~~

~~*4. To]*~~ ***to ensure compliance with federal law relating to nonadmitted insurance.*** ~~*[.*~~

~~*5. For the administration of and compliance with the Nonadmitted Insurance Multi-State Agreement or any other such multi-state agreement.]*~~ ***, including, without limitation, the Nonadmitted and Reinsurance Reform Act, 15 U.S.C. §§ 8201, et seq.***

Sec. 19. NRS 685A.010 is hereby amended to read as follows:

685A.010 This chapter constitutes and may be cited as the ~~[Surplus Lines]~~ ***Nonadmitted Insurance*** Law.

Sec. 20. NRS 685A.020 is hereby amended to read as follows:

685A.020 The ~~[Surplus Lines]~~ ***Nonadmitted Insurance*** Law shall not apply to reinsurance, or to the following insurances when placed by general lines agents or general lines brokers or surplus lines brokers licensed as such by this state ~~[:]~~ ***or when procured directly by an insured from a nonadmitted insurer:***

1. Wet marine and transportation insurance;

2. Insurance of subjects located, resident or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state;

3. Insurance of property and operations of railroads engaged in interstate commerce;

4. Insurance of aircraft of common carriers, or cargo of such aircraft, or against liability, other than employer's liability, arising out of the ownership, maintenance or use of such aircraft; or

5. Insurance of automobile bodily injury and property damage liability risks when written in Mexican insurers and covering in Mexico and not in the United States of America.

Sec. 21. NRS 685A.030 is hereby amended to read as follows:

685A.030 As used in this chapter ~~[:~~

~~1. Unless]~~ ***, unless*** the context otherwise requires, ~~["broker" means a surplus lines broker duly licensed as such under this chapter.~~

~~2. To "export" means to place in an unauthorized insurer under this chapter insurance covering a subject of insurance resident, located or to be performed in Nevada.]~~ ***the words and terms defined in sections 5 to 15, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 22. NRS 685A.040 is hereby amended to read as follows:

685A.040 If ***this State is the insured's home state and*** certain insurance coverages cannot be procured from authorized insurers, such coverages, designated in this chapter as ~~["surplus lines,"]~~ ***nonadmitted insurance,*** may be procured from unauthorized insurers, subject to the following conditions:

1. The insurance must be procured through a ~~[surplus lines]~~ broker licensed as such under this chapter ~~[.]~~ ***or procured by an insured directly from a nonadmitted insurer as permitted by law.***

2. ~~[The]~~ ***Except as otherwise provided in subsection 5, the*** full amount of insurance required must not be procurable ~~[,]~~ ***from an insurer authorized to engage in the business of insurance in this State,*** after diligent effort has been made to do so.

3. The insurance must not be so exported for the purpose of procuring it at a premium rate lower than would be accepted by any authorized insurer; difference in rates alone will not support the export of the insurance if any authorized insurer is able and willing to carry the risk.

4. Differences, bearing directly upon the cost of insurance, in the terms of policies which otherwise provide substantially the same coverage will not support the export of the insurance.

5. A broker is not required to make a diligent effort to determine whether the full amount or type of insurance can be obtained from admitted insurers when the broker is seeking to procure or place nonadmitted insurance for an exempt commercial purchaser if:

(a) The broker procuring or placing the nonadmitted insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and

(b) The exempt commercial purchaser has subsequently requested in writing for the broker to procure or place such insurance from a nonadmitted insurer.

Sec. 23. NRS 685A.050 is hereby amended to read as follows:

685A.050 1. At the time of effecting any surplus lines insurance ***for which this State is the home state,*** the broker shall ~~[execute an affidavit]~~ ***, within 90 days after such insurance is so effected, submit a report,*** in the form prescribed or accepted by the Commissioner, setting forth facts from which it can be determined whether such insurance is eligible for export under NRS 685A.040.

2. The broker shall ~~[file this affidavit]~~ ***keep in his or her office the report prepared pursuant to subsection 1 along*** with the report of coverage and any other information the Commissioner requires ***.*** ~~[within 90 days after the insurance is so effected, as required under regulations adopted pursuant to NRS 685A.210.]~~

3. The report prepared pursuant to subsection 1 must not be removed from the office of the broker and must be open to examination by the

Commissioner or a representative of the Commissioner at all times within 5 years after issuance of the coverage to which it relates.

Sec. 24. NRS 685A.060 is hereby amended to read as follows:

685A.060 1. The Commissioner may by order declare eligible for export generally and without compliance with subsections 2, 3 and 4 of NRS 685A.040 and NRS 685A.050, any class or classes of insurance coverage or risk for which the Commissioner finds that there is not a reasonable or adequate market among authorized insurers either as to acceptance of the risk, contract terms, or premium or premium rate. Any such order shall continue in effect during the existence of the conditions upon which predicated, but subject to earlier termination by the Commissioner.

2. ~~[The]~~ ***For surplus lines insurance, the*** broker shall file with or as directed by the Commissioner a memorandum as to each such coverage placed by the broker in an unauthorized insurer, in such form and context as the Commissioner may reasonably require for the identification of the coverage and determination of the tax payable to the State relative thereto.

3. The broker, or a licensed Nevada agent of the authorized insurer or a general lines broker, may also place with authorized insurers any insurance coverage made eligible for export generally under subsection 1, and without regard to rate or form filings which may otherwise be applicable to the authorized insurer. As to coverages so placed in an authorized insurer the premium tax thereon shall be reported and paid by the insurer as required generally under chapter 680B of NRS.

Sec. 25. NRS 685A.070 is hereby amended to read as follows:

685A.070 1. A broker shall not knowingly place surplus lines insurance with an insurer which is unsound financially or ineligible pursuant to this section.

2. ~~[Except]~~ ***With respect to nonadmitted insurance for insureds for which this State is the home state, except*** as otherwise provided in this section, an insurer is not eligible to accept surplus lines ***or independently procured*** risks pursuant to this chapter unless it has ***capital and*** surplus ~~[as to policyholders]~~ ***or its equivalent*** in an amount of not less than $15,000,000 ~~[and, if]~~ ***or the minimum capital and surplus requirements pursuant to NRS 680A.120, whichever is greater.***

3. The requirements of subsection 2 may be satisfied by an insurer possessing less than the minimum capital and surplus upon an affirmative finding of acceptability by the Commissioner. The finding must be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, market availability and company record and reputation within the industry. The Commissioner shall not make an affirmative finding of acceptability when the nonadmitted insurer's capital and surplus is less than $4,500,000.

4. A broker shall not place surplus lines insurance with an alien insurer, unless ***the alien insurer is listed on the Quarterly Listing of Alien***

Insurers maintained by the International Insurers Department of the National Association of Insurance Commissioners or, if the alien insurer is not listed on the Quarterly Listing of Alien Insurers, it has and maintains in a bank or trust company which is a member of the United States Federal Reserve System a trust fund established pursuant to terms that are reasonably adequate to protect all of its policyholders in the United States. Such a trust fund must not have an expiration date which is at any time less than 5 years in the future, on a continuing basis. In the case of:

(a) A single alien insurer, such a trust fund must not be less than the greater of $5,400,000 or 30 percent of the gross liabilities of the alien insurer for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance, not to exceed $60,000,000, to be determined annually on the basis of accounting practices and procedures that are substantially equivalent to the accounting practices and procedures applicable in this State as of December 31 of the year immediately preceding the date of the determination where:

(1) The liabilities are maintained in an irrevocable trust account in a qualified financial institution in the United States, on behalf of policyholders in the United States, consisting of cash, securities, letters of credit or any other investments of substantially the same character and quality as investments that are eligible investments pursuant to chapter 682A of NRS for the capital and statutory reserves of admitted insurers to write like kinds of insurance in this State. The trust fund, which must be included in any calculation of capital and surplus or its equivalent, must comply with the requirements set forth in the Standard Trust Agreement required for listing with the International Insurers Department of the National Association of Insurance Commissioners;

(2) The alien insurer may request approval by the Commissioner to use the trust fund to pay any valid claim against a surplus line if the balance of the trust fund is not, during any period, less than $5,400,000 or 30 percent of the alien insurer's current gross liabilities for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance; and

(3) In calculating the amount of the trust fund required by this subsection, credit must be given for any deposits for any surplus lines that are separately required and maintained within a state or territory of the United States, not to exceed the amount of the alien insurer's loss and loss adjustment reserves maintained in that state or territory.

(b) A group of insurers which includes individual unincorporated insurers, such a trust fund must not be less than $100,000,000.

(c) A group of incorporated insurers under common administration, such a trust fund must not be less than $100,000,000. Each insurer within the group must individually maintain capital and surplus of not less than $25,000,000. The group of incorporated insurers must:

(1) Operate under the supervision of the Department of Trade and Industry of the United Kingdom;

(2) Possess aggregate policyholders surplus of $10,000,000,000, which must consist of money in trust in an amount not less than the assuming insurers' liabilities attributable to insurance written in the United States; and

(3) Maintain a joint trusteed surplus of which $100,000,000 must be held jointly for the benefit of United States ceding insurers of any member of the group.

~~[(d) An insurance exchange created by the laws of a state, the insurance exchange shall have and maintain a trust fund in an amount of not less than $75,000,000 or have a surplus as to policyholders in an amount of not less than $75,000,000. If an insurance exchange maintains money for the protection of all policyholders, each syndicate shall maintain minimum capital and surplus of not less than $15,000,000 and must qualify separately to be eligible for the acceptance of surplus lines risks pursuant to this chapter. ➥ The Commissioner may require larger trust funds or surplus as to policyholders than those set forth in this section if, in the judgment of the Commissioner, the volume of business being transacted or proposed to be transacted warrants larger amounts.~~

~~3. An insurer is not eligible to write surplus lines of insurance unless it has established a reputation for financial integrity and satisfactory practices in underwriting and handling claims. In addition, a]~~

5. *A* foreign insurer must be authorized in the state of its domicile to write the kinds of insurance which it intends to write in Nevada ~~[~~.

~~4. The Commissioner may from time to time compile or approve a list of all surplus lines insurers deemed by the Commissioner to be eligible currently, and may mail a copy of the list to each broker at his or her office last of record with the Commissioner. To be placed on the list, a surplus lines insurer must file an application with the Commissioner. The application must be accompanied by a nonrefundable fee of $2,450 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110. To remain on the list, a surplus lines insurer must pay, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110. This subsection does not require the Commissioner to determine the actual financial condition or claims practices of any unauthorized insurer. The status of eligibility, if granted by the Commissioner, indicates only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the Commissioner has no credible evidence to the contrary. While any such list is in effect, the broker shall restrict to the insurers so listed all surplus lines business placed by the broker.]~~ ***and for which this State is the home state of the insured.***

Sec. 26. NRS 685A.090 is hereby amended to read as follows:

685A.090 Each insurance contract procured and delivered as a ~~[surplus lines]~~ ***nonadmitted*** coverage pursuant to this chapter must have conspicuously stamped upon it:

This insurance contract is issued pursuant to the Nevada insurance laws by an insurer neither licensed by nor under the supervision of the Division of Insurance of the Department of Business and Industry of the State of Nevada. If the insurer is found insolvent, a claim under this contract is not covered by the Nevada Insurance Guaranty Association Act.

Sec. 27. NRS 685A.100 is hereby amended to read as follows:

685A.100 Insurance contracts procured as ~~[surplus lines]~~ ***nonadmitted*** coverage from unauthorized insurers in accordance with this chapter shall be fully valid and enforceable as to all parties, and shall be given recognition in all matters and respects to the same effect as like contracts issued by authorized insurers.

Sec. 28. NRS 685A.110 is hereby amended to read as follows:

685A.110 1. As to a surplus lines risk which has been assumed by an unauthorized insurer pursuant to the ~~[Surplus Lines]~~ ***Nonadmitted Insurance*** Law, and if the premium thereon has been received by the surplus lines broker who placed such insurance, in all questions thereafter arising under the coverage between the insurer and the insured the insurer shall be deemed to have received the premium due to it for such coverage; and the insurer shall be liable to the insured for losses covered by such insurance, and for unearned premiums which may become payable to the insured upon cancellation of such insurance, whether or not in fact the broker is indebted to the insurer with respect to such insurance or for any other cause.

2. Each unauthorized insurer assuming a surplus lines risk under the ~~[Surplus Lines]~~ ***Nonadmitted Insurance*** Law shall be deemed thereby to have subjected itself to the terms of this section.

Sec. 29. NRS 685A.120 is hereby amended to read as follows:

685A.120 1. No person may act as, hold himself or herself out as or be a surplus lines broker with respect to subjects of insurance ~~[resident, located or to be performed in this State or elsewhere]~~ ***for which this State is the insured's home state*** unless the person is licensed as such by the Commissioner pursuant to this chapter.

2. Any person who has been licensed by this State as a producer of insurance for general lines for at least 6 months, or has been licensed in another state as a surplus lines broker and continues to be licensed in that state, and who is deemed by the Commissioner to be competent and trustworthy with respect to the handling of surplus lines may be licensed as a surplus lines broker upon:

(a) Application for a license and payment of all applicable fees for a license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account created by NRS 679B.305;

(b) Submitting the statement required pursuant to NRS 685A.127; and

(c) Passing any examination prescribed by the Commissioner on the subject of surplus lines.

3. An application for a license must be submitted to the Commissioner on a form designated and furnished by the Commissioner. The application must include the social security number of the applicant.

4. A license issued pursuant to this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. The license may be renewed upon submission of the statement required pursuant to NRS 685A.127 and payment of all applicable fees for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account created by NRS 679B.305 to the Commissioner on or before the last day of the month in which the license is renewable.

5. A license which is not renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by the Commissioner within 30 days after the expiration of the license if the request is accompanied by:

(a) The statement required pursuant to NRS 685A.127;

(b) All applicable fees for renewal;

(c) A penalty in an amount that is equal to 50 percent of all applicable fees for renewal, except for any fee required pursuant to NRS 680C.110; and

(d) A fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account created by NRS 679B.305.

Sec. 30. NRS 685A.140 is hereby amended to read as follows:

685A.140 1. In addition to other grounds therefor, the Commissioner may suspend or revoke any surplus lines broker's license:

(a) If the broker fails to file the ~~[annual]~~ ***quarterly*** statement or to remit the tax as required by NRS ~~[685A.170]~~ ***685A.175*** and 685A.180;

(b) If the broker fails to maintain an office in this state or in the state where the broker was issued a license as a resident broker, or to keep the records, or to allow the Commissioner to examine his or her records as required by this chapter, or if the broker removes his or her records from the state; or

(c) If ***this State is the insured's home state and*** the broker places a surplus lines coverage in an insurer other than as authorized under this chapter.

2. Upon suspending or revoking the broker's surplus lines license the Commissioner may also suspend or revoke all other licenses of or as to the same individual under this Code.

Sec. 31. NRS 685A.160 is hereby amended to read as follows:

685A.160 1. Each broker shall keep in his or her office a full and true record of each surplus lines coverage procured by the broker ~~[,]~~ ***for which this State is the insured's home state,*** including a copy of each daily report, if any, a copy of each certificate of insurance issued by the broker, and such of the following items as may be applicable:

(a) The amount of the insurance;

(b) The gross premium charged;

(c) The return premium paid, if any;

(d) The rate of premium charged upon the several items of property;

(e) The effective date of the contract, and the terms thereof;

(f) The name and address of each insurer on the direct risk and the proportion of the entire risk assumed by that insurer if less than the entire risk;

(g) The name and address of the insured;

(h) A brief general description of the property or risk insured and where located or to be performed; and

(i) Any other information as may be required by the Commissioner.

2. The record must not be removed from the office of the broker and must be open to examination by the Commissioner or a representative of the Commissioner at all times within 5 years after issuance of the coverage to which it relates.

Sec. 32. NRS 685A.175 is hereby amended to read as follows:

685A.175 ~~[~~Within 45 days after the end of each calendar quarter, a~~]~~

1. A broker who has written coverage ~~[~~which will require the broker to pay more than $1,000 in taxes for coverage written in that calendar quarter~]~~ ***for which this State is the insured's home state*** shall pay ***, by the date described in subsection 2,*** the tax for ~~[~~the~]~~ ***each calendar*** quarter ~~[~~to~]~~ ***as directed by*** the Commissioner and shall file ~~[~~with~]~~ ***as directed by*** the Commissioner ~~[~~, or with a nonprofit organization of brokers in accordance with regulations adopted by the Commissioner pursuant to NRS 685A.210,~]~~ a copy of a quarterly report which includes an accounting of:

~~[~~1.~]~~ ***(a)*** The aggregate gross premiums for the quarter;

~~[~~2.~]~~ ***(b)*** The aggregate of the return premiums received;

~~[~~3.~]~~ ***(c)*** The amount of tax remitted to the Commissioner; and

~~[~~4.~]~~ ***(d)*** The ~~[~~amount of aggregate tax remitted to each other state for which an allocation is made pursuant to NRS 680B.030.~]~~ ***distribution of the exposures of insureds by state in accordance with the requirements of*** ~~*[the Nonadmitted Insurance Multi-State Agreement or]*~~ ***any*** ~~*[other such]*~~ ***multi_state agreement*** ~~*[.]*~~ ***entered into by the Commissioner pursuant to section 17 of this act.***

➥ The report must be on a form approved by the Commissioner.

2. The tax filings and payments required by subsection 1 must be submitted by:

(a) February 15 for the calendar quarter ending the preceding December 31.

(b) May 15 for the calendar quarter ending the preceding March 31.

(c) August 15 for the calendar quarter ending the preceding June 30.

(d) November 15 for the calendar quarter ending the preceding September 30.

Sec. 33. NRS 685A.180 is hereby amended to read as follows:

685A.180 1. ~~[~~On~]~~ ***Except as otherwise provided in subsection 6, on*** or before ~~[~~March 1 of each year,~]~~ ***the date described in subsection 2 of NRS 685A.175 for each quarter,*** each broker shall pay ~~[~~to~]~~ ***as directed by***

the Commissioner a tax on surplus lines coverages ***for which this State is the insured's home state*** written by the broker in unauthorized insurers during the preceding calendar ~~[year]~~ ***quarter*** at the same rate of tax as imposed by law on the premiums of similar coverages written by authorized insurers ~~[. If a broker has paid any taxes pursuant to NRS 685A.175, the broker shall deduct the total paid from the tax due and pay the remainder, if any.]~~ ***, in addition to any fees imposed pursuant to NRS 685A.075.***

2. ***Except as otherwise provided in subsection 6, on or before the date described in subsection 2 of NRS 685A.175 for each quarter, each insured for which this State is the home state shall pay as directed by the Commissioner a tax on independently procured insurance written for the insured by an unauthorized insurer during the preceding calendar quarter at the same rate of tax as imposed by law on the premiums of similar coverages written by authorized insurers, in addition to any fees imposed pursuant to NRS 685A.075.***

3. For the purposes of this section, the "premium" on surplus lines coverages includes:

(a) The gross amount charged by the insurer for the insurance, less any return premium;

(b) Any fee allowed by NRS 685A.155;

(c) Any policy fee;

(d) Any membership fee;

(e) Any inspection fee; and

(f) Any other fees or assessments charged by the insurer as consideration for the insurance.

➥ Premium does not include any additional amount charged for state or federal tax, or for ~~[filing]~~ ***executing or completing*** affidavits or reports of coverage.

~~[3. If a contract for surplus lines insurance covers risks or exposures only partially in this State, the tax so payable must be computed on that portion of the premium properly allocable to the risks or exposures located in this State. The Commissioner may adopt regulations which establish standards for allocating premiums for risks located in this State in the same manner as premiums are allocated pursuant to NRS 680B.030.]~~

4. ~~[The Commissioner shall promptly deposit all]~~ ***All*** taxes collected ***as directed*** by the Commissioner pursuant to this section ***and not intended for disbursement to other states by*** ~~*[the]*~~ ***a clearinghouse established through*** ~~*[the Nonadmitted Insurance Multi-State Agreement or in accordance with]*~~ ***any*** ~~*[other such]*~~ ***multi-state agreement entered into by the Commissioner pursuant to section 17 of this act must be promptly deposited*** with the State Treasurer, to the credit of the State General Fund.

5. A broker who receives a credit for tax paid shall refund to each insured the amount of the credit attributable to the insured when the insurer pays a return premium or within 30 days, whichever is earlier.

6. If the Commissioner has entered into ~~*[the Nonadmitted Insurance Multi-State Agreement or any other such]*~~ ***a multi-state agreement*** ~~*[,]*~~ ***pursuant to section 17 of this act, the Commissioner may require that each broker who has written surplus line coverages for multi-state risks for which this State is the insured's home state and each insured for which this State is the home state who has obtained independently procured insurance for multi-state risks pay a premium tax:***

(a) For the portion of the premium allocated to Nevada, at the tax rate applicable to nonadmitted insurance pursuant to this chapter;

(b) For the portion of the premium allocated to any other state that also participates in the ~~*[Nonadmitted Insurance Multi-State Agreement or any other such]*~~ ***multi-state agreement, at the tax rate applicable to nonadmitted insurance as established by that state; and***

(c) For the portion of the premium allocated to any other state that does not participate in the ~~*[Nonadmitted Insurance Multi-State Agreement or any other such]*~~ ***multi-state agreement, at the tax rate applicable to nonadmitted insurance pursuant to this chapter. The tax for this portion of the premium must be deposited with the State Treasurer, to the credit of the State General Fund, after it is processed by the clearinghouse established through the*** ~~*[Nonadmitted Insurance Multi-State Agreement or other similar]*~~ ***multi-state agreement.***

Sec. 34. NRS 685A.190 is hereby amended to read as follows:

685A.190 1. A broker who fails to make and file the ~~[annual]~~ ***quarterly*** statement required pursuant to NRS ~~[685A.170 before April 1 after the due date of the statement,]~~ ***685A.175*** is liable for a penalty of $500.

2. Except as otherwise provided in this subsection, a broker who fails to pay the tax required by NRS 685A.180 ~~[before April 1 after the date upon which the tax is due]~~ is liable:

(a) If the aggregate amount of the tax owed by the broker is more than $50, for a penalty in the first year of delinquency in the amount of $1,000 or 125 percent of the delinquent tax, whichever is larger; or

(b) If the aggregate amount of the tax owed by the broker is $50 or less, for a penalty in the first year of delinquency in an amount equal to the amount of the delinquent tax.

3. Interest must be charged on all penalties imposed pursuant to subsection 2 in an amount equal to the prime rate at the largest bank in the State of Nevada, as ascertained by the Commissioner of Financial Institutions on January 1 of the year in which the tax became due, plus 2 percent. The rate must be adjusted on July 1 and January 1 thereafter. The interest charged must be compounded monthly and must continue to accrue until the penalty and interest are paid in full.

4. The tax may be collected by distraint, or the tax and penalty may be recovered by an action instituted by the Commissioner, in the name of the State, the Attorney General representing the Commissioner, in any court of

competent jurisdiction. The penalty, when so collected, must be paid to the State Treasurer for credit to the State General Fund.

5. No proceeding to recover taxes, penalties or fines pursuant to this section may be maintained unless it is commenced by the giving of notice to the person against whom the proceeding is brought within 5 years after the occurrence of the charged act or omission. This limitation does not apply if the Commissioner finds fraudulent or willful evasion of taxes.

Sec. 35. NRS 685A.200 is hereby amended to read as follows:

685A.200 1. An unauthorized insurer effecting insurance under the provisions of the ~~[Surplus Lines]~~ ***Nonadmitted Insurance*** Law shall be deemed to be transacting insurance in this state as an unlicensed insurer and may be sued in a district court of this state upon any cause of action arising against it in this state under any insurance contract entered into by it under this chapter.

2. Service of legal process against the insurer may be made in any such action by service of two copies thereof upon the Commissioner or an authorized representative of the Commissioner and payment of the fee specified in NRS 680B.010. The Commissioner or an authorized representative of the Commissioner shall forthwith mail a copy of the process served to the person designated by the insurer in the policy for the purpose by prepaid registered or certified mail with return receipt requested. If no such person is so designated in the policy, the Commissioner or an authorized representative of the Commissioner shall in like manner mail a copy of the process to the broker through whom the insurance was procured, or to the insurer at its principal place of business, addressed to the address of the broker or insurer, as the case may be, last of record with the Commissioner. Upon service of process upon the Commissioner or an authorized representative of the Commissioner and its mailing in accordance with this subsection, the court shall be deemed to have jurisdiction in personam of the insurer.

3. The defendant insurer has 40 days from the date of service of the summons and complaint upon the Commissioner or an authorized representative of the Commissioner within which to plead, answer or defend any such suit.

4. An unauthorized insurer entering into such an insurance contract shall be deemed thereby to have authorized service of process against it in the manner and to the effect provided in this section. Any such contract, if issued, must contain a provision stating the substance of this section and designating the person to whom the Commissioner or an authorized representative of the Commissioner shall mail process as provided in subsection 2.

5. For the purposes of this section, "process" includes only a summons or the initial documents served in an action. The Commissioner or an authorized representative of the Commissioner is not required to serve any documents after the initial service of process.

Sec. 36. NRS 685A.170 is hereby repealed.

Sec. 37. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

685A.170 Annual statement of broker.

1. Each broker shall on or before March 1 of each year file with the Commissioner a statement verified by the broker of all surplus lines insurance transacted by the broker during the preceding calendar year. A statement must be filed whether or not the broker has transacted any business during the preceding year.

2. The statement must be on forms as prescribed and furnished by the Commissioner, and must contain such information as the Commissioner may reasonably require.

3. If a broker has filed any reports pursuant to NRS 685A.175, the annual statement must include any necessary reconciliation of the quarterly reports.

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 289.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 292.

The following Assembly amendment was read:

Amendment No. 655.

"SUMMARY—Revises provisions relating to insurance. (BDR 57-1074)"

"AN ACT relating to insurance; providing for the licensure and regulation of persons who sell or offer coverage under a policy of portable electronics insurance; providing a fee; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person is not authorized to engage in the business of transacting insurance unless the person is issued a license by the Commissioner of Insurance. **Sections 2-15** of this bill provide for the licensure and regulation of persons, including certain persons who are not residents of this State, who sell or offer coverage under a new limited line of insurance, the coverage of portable electronics against the risk of loss, which provides coverage for the repair or replacement of portable electronics and which may cover portable electronics against loss, theft, inoperability due to mechanical failure, malfunction, accidental damage or other similar perils in accordance with the terms of the policy. A vendor who sells or offers coverage under a policy of portable electronics insurance must be licensed as a producer of insurance and pay certain fees. (NRS 680B.010, 680C.110) Existing law provides that a violation of certain provisions of the Nevada Insurance Code, including **sections 2-17** of this bill, is a misdemeanor.

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

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. (Deleted by amendment.)

Sec. 4. ***"Customer" means a person who acquires, by lease or purchase, portable electronics or services related to the use of portable electronics from a vendor.***

Sec. 4.3. ***"Enrolled customer" means a customer who elects coverage under a policy of portable electronics insurance issued to a vendor.***

Sec. 4.5. ***"Location" means any physical site within this State or any Internet website, call center or other similar site where a vendor transacts business with residents of this State.***

Sec. 5. ***"Maintenance agreement" means a contract for a limited period that provides only for scheduled maintenance.***

Sec. 6. ***"Portable electronics" means electronic devices that are portable in nature and their accessories.***

Sec. 7. ***1. "Portable electronics insurance" means insurance which provides coverage for the repair or replacement of portable electronics and which may cover portable electronics against loss, theft, inoperability due to mechanical failure, malfunction, accidental damage or other similar perils in accordance with the terms of the policy.***

2. The term does not include:

(a) A service contract governed by chapter 690C of NRS;

(b) A maintenance agreement;

(c) A warranty;

(d) A policy of homeowners' insurance, renter's insurance or motor vehicle insurance; or

(e) A policy of property or casualty insurance for business and commercial risks.

Sec. 7.5. ***"Supervising entity" means a business or entity that is a licensed insurer or producer of insurance.***

Sec. 8. ***"Vendor" means a person who, directly or indirectly, engages in the business of:***

1. The sale or lease of portable electronics by the vendor to a customer; or

2. The sale of a service related to the use of portable electronics by the vendor to a customer.

Sec. 9. ***"Warranty" means a warranty provided solely by a manufacturer, importer or seller of goods for which the manufacturer, importer or seller did not receive separate consideration and that:***

1. Is not negotiated or separated from the sale of the goods;

2. Is incidental to the sale of the goods; and

3. Guarantees to indemnify the consumer for defective parts, mechanical or electrical failure, labor or other remedial measures required to repair or replace the goods.

Sec. 10. ***1. A vendor shall not sell or offer coverage under a policy of portable electronics insurance unless the vendor holds a license as a producer of insurance in portable electronics insurance as a limited line issued by the Commissioner pursuant to NRS 683A.261 or 683A.271.***

2. In addition to the information required pursuant to NRS 683A.251, an application for a license as a producer of insurance in portable electronics insurance must include:

(a) A schedule which identifies each location at which the vendor does business; and

(b) The physical address of the home office of the vendor.

3. A natural person who is designated by a vendor pursuant to paragraph (b) of subsection 2 of NRS 683A.251 is not required to be a principal, officer or employee of the vendor.

4. A vendor who is licensed as a producer of insurance in portable electronics insurance shall maintain the schedule described in paragraph (a) of subsection 2 and make the schedule available for inspection by the Commissioner upon request.

Sec. 10.5. ***The Commissioner may issue or renew a license as a producer of insurance in portable electronics insurance as a limited line pursuant to NRS 683A.261 or 683A.271 to an applicant who is not a resident of Nevada, including, without limitation, a resident of Canada:***

1. Before July 1, 2014, if:

(a) The jurisdiction in which the applicant resides or in which the applicant maintains his or her principal place of business does not provide for the issuance of a license as a producer of insurance in portable electronics insurance as a limited line; and

(b) The applicant meets all other requirements for licensure.

2. On or after July 1, 2014, if:

(a) The jurisdiction in which the applicant resides or in which the applicant maintains his or her principal place of business does not provide for the issuance of a license as a producer of insurance in portable electronics as a limited line;

(b) The applicant is issued a license as a producer of insurance for property and casualty insurance in this State pursuant to NRS 683A.261; and

(c) The applicant meets all other requirements for licensure.

Sec. 11. ***1. Notwithstanding any other provision of law, an employee or authorized representative of a vendor that holds a license as a producer of insurance in portable electronics insurance issued by the Commissioner pursuant to NRS 683A.261 or 683A.271 may, without a license issued by the Commissioner, sell or offer coverage under a policy of portable electronics insurance at any location at which the vendor does business if:***

(a) The employee or authorized representative of the vendor sells or offers coverage under a policy of portable electronics insurance only on behalf of, and under the supervision of, the vendor; and

(b) Before the employee or authorized representative of the vendor sells or offers coverage under a policy of portable electronics insurance, he or she completes a program of training provided by the vendor pursuant to section 12 of this act.

2. An employee or authorized representative of a vendor who sells or offers coverage under a policy of portable electronics insurance pursuant to this section shall not advertise, represent or otherwise hold himself or herself out as a licensed producer of insurance unless the person is licensed as a producer of insurance.

Sec. 12. *1. An authorized insurer may deliver or issue for delivery in this State a policy of portable electronics insurance as a group or master inland marine policy issued to a vendor. A vendor may provide coverage for portable electronics under the policy to customers who elect to enroll under the policy. The policy may be offered on a month-to-month or other periodic basis. Notwithstanding the provisions of any law to the contrary, each rate for a policy of portable electronics insurance must be filed with the Commissioner pursuant to chapter 686B of NRS.*

2. An insurer that issues a group policy of portable electronics insurance to a vendor shall:

(a) Establish reasonable eligibility and underwriting standards for customers who elect to enroll under the vendor's policy of portable electronics insurance.

(b) Appoint a supervising entity to oversee the vendor's sales and enrollment activities under the vendor's policy of portable electronics insurance.

3. A supervising entity appointed pursuant to this section must develop and conduct a training program for the employees and authorized representatives of the vendor who sell or offer coverage under the vendor's policy of portable electronics insurance. The training program must include, without limitation, basic instruction concerning:

(a) The coverage that is available to customers who enroll under the vendor's policy of portable electronics insurance; and

(b) The disclosures required by section 13 of this act.

4. The supervising entity may provide the basic instruction required by subsection 3 in electronic form if the supervising entity provides supplemental ~~[training]~~ education that is conducted and overseen ~~[in person]~~ by a licensed employee of the supervising entity.

5. The supervising entity shall ensure that each employee and authorized representative of a vendor completes the training program required by subsection 3 before selling or offering to sell coverage under the vendor's policy of portable electronics insurance.

Sec. 13. ***1. A vendor shall make available to a prospective customer, at each location where the vendor sells or offers coverage under a policy of portable electronics insurance, a printed brochure or other written material concerning the coverage available under the policy of portable electronics insurance. The written material must:***

(a) Disclose that coverage under a policy of portable electronics insurance may duplicate coverage already provided to the customer by a policy of property insurance or other source of coverage;

(b) State that the customer is not required to enroll for coverage under the vendor's policy of portable electronics insurance as a condition of the purchase or lease of any portable electronics or related services;

(c) Summarize the material terms of the coverage provided under the policy of portable electronics insurance, including:

(1) The identity of the insurer;

(2) The identity of the supervising entity;

(3) The amount of any applicable deductible and how it is to be paid;

(4) Benefits of the coverage; and

(5) Key terms and conditions of the coverage, including, without limitation, whether portable electronics may be repaired or replaced with a similar make and model that has been reconditioned or with nonoriginal manufacturer parts or equipment;

(d) Summarize the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable if the enrolled customer fails to comply with any equipment return requirements; and

(e) State that the enrolled customer may cancel his or her enrollment for coverage under the policy of portable electronics insurance at any time and, in the event of such cancellation, the person paying the premium for the coverage will receive a refund of any applicable unearned premium.

2. If a customer elects to enroll in coverage under a policy of portable electronics insurance, the printed brochure or other written material may serve as a certificate of coverage if the material satisfies the requirements of subsection 1. A policy of portable electronics insurance, including the certificate of coverage of the policy, must be filed with the Commissioner not later than 15 days ~~[after]~~ before the effective date of the policy.

Sec. 14. ***1. If a customer purchases a policy of portable electronics insurance from a vendor or elects to enroll in coverage under the vendor's policy of portable electronics insurance, the vendor may bill and collect the charges for the portable electronics insurance coverage.***

2. Any charge to the customer for portable electronics insurance coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services must be separately itemized on the customer's bill.

3. If portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor

must clearly and conspicuously disclose to the customer that the portable electronics insurance coverage is included with the purchase of the portable electronics or related services.

4. A vendor which bills and collects charges for portable electronics insurance coverage on behalf of an insurer is not required to maintain such money in a segregated account if the vendor:

(a) Is authorized by the insurer to hold such money in an alternative manner; and

(b) Remits such amounts to the supervising entity within 60 days after receipt.

➥ All money collected by a vendor from an enrolled customer for the sale of portable electronics insurance shall be deemed to be held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. A vendor is entitled to receive compensation for billing and collection services.

Sec. 15. ***Notwithstanding any other provision of law:***

1. Except as otherwise provided in this section, an insurer that issues a policy of portable electronics insurance may not terminate the policy before the expiration of the agreed term of the policy unless, not less than 30 days before the effective date of the termination, the insurer provides notice to:

(a) The holder of the policy of portable electronics insurance; and

(b) If the policy is a group policy issued to a vendor under which individual customers may elect to enroll for coverage, each enrolled customer.

2. An insurer shall not change any term or condition of a policy of portable electronics insurance more than once in any 6-month period. If the insurer changes a term or condition of a policy of portable electronics insurance, the insurer shall, not less than 30 days before the effective date of the change, provide:

(a) The policyholder with a revised policy or endorsement; and

(b) Each enrolled customer with a revised certificate of coverage, endorsement, brochure or other evidence of coverage which:

(1) Declares that the insurer has changed a term or condition of the policy which may affect the enrolled customer's coverage; and

(2) Provides a summary of the material changes.

3. An insurer may terminate an enrolled customer's coverage under a vendor's policy of portable electronics insurance upon the discovery of fraud or material misrepresentation by the enrolled customer in obtaining the coverage or in presenting a claim thereunder if the insurer provides notice of the termination to the vendor and the enrolled customer within 15 days after discovery of the fraud or material misrepresentation.

4. An insurer may terminate an enrolled customer's coverage under a vendor's policy of portable electronics insurance if the enrolled customer fails to pay a premium and the insurer gives the enrolled customer not less than 10 days' notice of his or her failure to pay the premium.

5. An insurer may immediately terminate an enrolled customer's coverage under a vendor's policy of portable electronics insurance:

(a) If the enrolled customer ceases to have an active service with the vendor; or

(b) If the enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the policy of portable electronics insurance and the insurer provides notice of termination to the customer within 30 calendar days after exhaustion of the limit. If the insurer fails to provide timely notice as required by this paragraph, the enrolled customer's coverage under the policy continues until the insurer provides notice of termination to the enrolled customer notwithstanding the exhaustion of the aggregate limit of liability.

6. A vendor or other holder of a group policy of portable electronics insurance shall not terminate ~~[an enrolled customer's coverage under]~~ the policy unless, not less than 30 days before the effective date of the termination, the insurer provides notice to ~~[the]~~ each enrolled customer of the termination of the policy and the effective date of termination. An insurer may authorize a vendor to provide notice to an enrolled customer on behalf of the insurer pursuant to this subsection.

7. Any notice that is required pursuant to this section must be in writing and be:

(a) Mailed or delivered to the enrolled customer, vendor or other policyholder at his or her last known address; or

(b) Sent by electronic mail or other electronic means in accordance with regulations adopted by the Commissioner to the enrolled customer, vendor or other policyholder at the electronic mail address of the enrolled customer, vendor or other policyholder last known by the insurer.

➥ An insurer or vendor who provides notice pursuant to this subsection must maintain proof of mailing or delivery in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service or an electronic record or other proof that the notice was sent.

Sec. 16. ***If a vendor or an employee or authorized representative of a vendor violates any provision of this chapter or an order or regulation of the Commissioner issued or adopted pursuant thereto, the Commissioner may, after notice and an opportunity for a hearing:***

1. Impose an administrative fine pursuant to NRS 683A.461 for each violation, which must not exceed $50,000 in the aggregate;

2. Suspend a vendor's privilege of engaging in the sale or offering of coverage under a policy of portable electronics insurance at a particular location where the vendor does business;

3. Suspend or revoke the privilege of an employee or authorized representative of a vendor to sell or offer coverage under a policy of portable electronics insurance; or

4. Suspend or revoke the license issued by the Commissioner to the vendor as a licensed producer of insurance.

Sec. 17. ***The Commissioner may adopt such regulations as necessary to carry out the provisions of this chapter.***

Sec. 18. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(f) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

(l) ***Portable electronics as a limited line.***

(m) Continuous care coverage, which includes health insurance, as set forth in paragraph (b), and may include insurance for workers' compensation.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, all applicable fees for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account are paid for each license and

each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his or her license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of all applicable renewal fees, except for any fee required pursuant to NRS 680C.110. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his or her license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice all applicable renewal fees, except for any fee required pursuant to NRS 680C.110, is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his or her license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where the resident producer of insurance principally conducts transactions under his or her license. The place of business may be in his or her residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which the licensee conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which the licensee conducts business as a producer of insurance or his or her business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, the Commissioner may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his or her last mailing address appearing on the

records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 19. NRS 683A.291 is hereby amended to read as follows:

683A.291 1. An applicant for licensing in this state as a producer of insurance who was previously licensed for the same lines of authority in another state need not complete any education or examination if the applicant is currently licensed in that state or, if the application is received within 90 days after the cancellation of the license, the other state certifies that the applicant was in good standing at the time of cancellation. Alternatively, the exemption is available if the records of the National Association of Insurance Commissioners show that the applicant is or was licensed and in good standing for the lines of authority requested.

2. An examination is not required for a producer of insurance who confines his or her activity to insurance categorized as limited line, credit, travel, ***portable electronics,*** baggage or fixed annuity, or covering vehicles leased for a short term.

3. A person licensed in another state who moves to this state and desires to become licensed as a resident producer of insurance with the benefit of the exemption provided in subsection 1 must apply for licensing within 90 days after establishing legal residence.

Sec. 20. Notwithstanding the provisions of sections 2 to 17, inclusive, of this act, a vendor is not required to be licensed as a producer of insurance limited to portable electronics insurance to sell or offer coverage under a policy of portable electronics insurance until 90 days after the Commissioner of Insurance makes available an application for such a license or October 1, 2011, whichever is later.

Sec. 21. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On October 1, 2011, for all other purposes.

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 292.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 329.

The following Assembly amendment was read:

Amendment No. 826.

"SUMMARY—Revises provisions governing prescriptions. (BDR 54-904)"

"AN ACT relating to pharmacy; authorizing certain education and training to be provided to practitioners concerning the management by a patient of medications of the patient; requiring practitioners to post a sign informing patients of the right to have the symptom or purpose for which a drug is

prescribed be included on the label of the container of the drug; **revising provisions relating to prescriptions for controlled substances included in schedule II;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes, but does not require, a practitioner to ask a patient if the patient wishes to have included on the label of a prescription the symptom or purpose for which the drug is dispensed and, if the patient so requests, requires the practitioner to include such information on the written prescription. (NRS 639.2352) **Section 2** of this bill requires practitioners to post signs in English and Spanish informing patients of the right to have certain information included on the label attached to the container of the drug. **Sections 1.3 and 1.7** of this bill require the Board of Medical Examiners and the State Board of Osteopathic Medicine to encourage physicians to obtain continuing education concerning methods of educating patients about how to effectively manage medications. **Section 6.5** of this bill authorizes the State Board of Pharmacy or the Investigation Division of the Department of Public Safety, in cooperation with the Health Division of the Department of Health and Human Services, to carry out education and training regarding the rights of patients to have the symptom or purpose of a medication printed on the label attached to the container for that medication.

Section 6.3 of this bill authorizes the issuance of an electronic prescription for a controlled substance included in schedule II if such an electronic prescription is issued in compliance with any regulations adopted by the Board concerning electronic prescriptions.

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

Section 1. (Deleted by amendment.)

Sec. 1.3. NRS 630.253 is hereby amended to read as follows:

630.253 1. The Board shall, as a prerequisite for the:

(a) Renewal of a license as a physician assistant; or

(b) Biennial registration of the holder of a license to practice medicine,

➥ require each holder to comply with the requirements for continuing education adopted by the Board.

2. These requirements:

(a) May provide for the completion of one or more courses of instruction relating to risk management in the performance of medical services.

(b) Must provide for the completion of a course of instruction, within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

(1) An overview of acts of terrorism and weapons of mass destruction;

(2) Personal protective equipment required for acts of terrorism;

(3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;

(4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and

(5) An overview of the information available on, and the use of, the Health Alert Network.

➥ The Board may thereafter determine whether to include in a program of continuing education additional courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction.

3. The Board shall encourage each holder of a license who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

(a) The skills and knowledge that the licensee needs to address aging issues;

(b) Approaches to providing health care to older persons, including both didactic and clinical approaches;

(c) The biological, behavioral, social and emotional aspects of the aging process; and

(d) The importance of maintenance of function and independence for older persons.

4. ***The Board shall encourage each holder of a license to practice medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.***

5. As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 202.4415.

(b) "Biological agent" has the meaning ascribed to it in NRS 202.442.

(c) "Chemical agent" has the meaning ascribed to it in NRS 202.4425.

(d) "Radioactive agent" has the meaning ascribed to it in NRS 202.4437.

(e) "Weapon of mass destruction" has the meaning ascribed to it in NRS 202.4445.

Sec. 1.7. NRS 633.471 is hereby amended to read as follows:

633.471 1. Except as otherwise provided in subsection ~~[4]~~ ***5*** and NRS 633.491, every holder of a license to practice osteopathic medicine issued under this chapter, except a temporary or a special license, may renew the license on or before January 1 of each calendar year after its issuance by:

(a) Applying for renewal on forms provided by the Board;

(b) Paying the annual license renewal fee specified in this chapter;

(c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against the holder during the previous year;

(d) Submitting an affidavit to the Board that in the year preceding the application for renewal the holder has attended courses or programs of continuing education approved by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and

(e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee of the practice of osteopathic medicine of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license to practice osteopathic medicine. Upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal the applicant attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. ***The Board shall encourage each holder of a license to practice osteopathic medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.***

5. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

Sec. 2. NRS 639.2352 is hereby amended to read as follows:

639.2352 ***1.*** Before issuing a prescription, a practitioner may ask the patient whether he or she wishes to have included on the label ~~[of the prescription]~~ ***attached to the container of the drug*** the symptom or purpose for which the drug is prescribed. If the patient requests that the information be included on the label, the practitioner shall include on the prescription the symptom or purpose for which the drug is prescribed.

2. Each practitioner shall post in a conspicuous location in each room used for the examination of a patient a sign which is not less than 8.5 inches wide and not less than 11 inches high and which contains, in at least 12-point boldface type, the following:

NOTICE TO PATIENTS

You have the right to have the symptom or purpose for which a drug is prescribed included on the label attached to the

container of your prescribed drug.
You have the right to ask the person writing your prescription to instruct the pharmacy to print this information on the label attached to the container of your prescribed drug.
Having the purpose or symptom printed on the label attached to the container of your drug may help you to properly use and track your prescribed drugs.
AVISO A LOS PACIENTES
Tiene derecho de que se imprima cierta información en la etiqueta de sus medicamentos. Específicamente, usted puede elegir que la etiqueta incluya los síntomas o el propósito para que el medicamento se prescribe.
Tiene derecho de pedirle a la person que prescriba su medicamento que dirija a la farmacia que imprima la información en la etiqueta.
Si se imprimen los síntomas o el propósito en la etiqueta de sus medicamentos, le puede ayudar a mantenerlos y usarlos apropriadamente.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 6.3. **NRS 453.256 is hereby amended to read as follows:**

453.256 1. Except as otherwise provided in subsection 2, a substance included in schedule II must not be dispensed without the written prescription of a practitioner.

2. A controlled substance included in schedule II may be dispensed without the written prescription of a practitioner only:

(a) In an emergency, as defined by regulation of the Board, upon oral prescription of a practitioner, reduced to writing promptly and in any case within 72 hours, signed by the practitioner and filed by the pharmacy.

(b) ***Pursuant to an electronic prescription of a practitioner which complies with any regulations adopted by the Board concerning the use of electronic prescriptions.***

(c) Upon the use of a facsimile machine to transmit the prescription for a substance included in schedule II by a practitioner or a practitioner's agent to a pharmacy for:

(1) Direct administration to a patient by parenteral solution; or

(2) A resident of a facility for intermediate care or a facility for skilled nursing which is licensed as such by the Health Division of the Department.

➥ A prescription transmitted by a facsimile machine pursuant to this paragraph must be printed on paper which is capable of being retained for at least 2 years. For the purposes of this section, ~~[such a]~~ ***an electronic*** prescription ***or a prescription transmitted by facsimile machine*** constitutes a written prescription. The pharmacy shall keep prescriptions in conformity

with the requirements of NRS 453.246. A prescription for a substance included in schedule II must not be refilled.

3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a substance included in schedule III or IV which is a dangerous drug as determined under NRS 454.201, must not be dispensed without a written or oral prescription of a practitioner. The prescription must not be filled or refilled more than 6 months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

4. A substance included in schedule V may be distributed or dispensed only for a medical purpose, including medical treatment or authorized research.

5. A practitioner may dispense or deliver a controlled substance to or for a person or animal only for medical treatment or authorized research in the ordinary course of his or her profession.

6. No civil or criminal liability or administrative sanction may be imposed on a pharmacist for action taken in good faith in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

7. An individual practitioner may not dispense a substance included in schedule II, III or IV for the practitioner's own personal use except in a medical emergency.

8. A person who violates this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

9. As used in this section:

(a) "Facsimile machine" means a device which sends or receives a reproduction or facsimile of a document or photograph which is transmitted electronically or telephonically by telecommunications lines.

(b) "Medical treatment" includes dispensing or administering a narcotic drug for pain, whether or not intractable.

(c) "Parenteral solution" has the meaning ascribed to it in NRS 639.0105.

Sec. 6.5. NRS 453.155 is hereby amended to read as follows:

453.155 1. The Board or Division, in cooperation with the Health Division of the Department, may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs the Board or Division may:

(a) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(b) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(c) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(d) Evaluate procedures, projects, techniques and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(e) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to alleviate them; ~~[and]~~

(f) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances ~~[.]~~ ***; and***

(g) Carry out education and training for physicians, pharmacists and patients regarding the ability of the patient to request to have the symptom or purpose for which a controlled substance is prescribed included on the label attached to the container of the controlled substance.

2. The Board shall encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of the provisions of NRS 453.011 to 453.552, inclusive, it may:

(a) Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(b) Make studies and undertake programs of research to:

(1) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of such sections;

(2) Determine patterns of misuse and abuse of controlled substances and the social effects thereof; and

(3) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and

(c) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations or special projects which bear directly on misuse and abuse of controlled substances.

3. The Board may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subject of the research. A person who obtains this authorization is not compelled in any civil, criminal, administrative, legislative or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

4. The Board may authorize the possession and distribution of controlled substances by persons engaged in research. A person who obtains this authorization is exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization. The Board shall promptly notify the Division of any such authorization.

Sec. 7. (Deleted by amendment.)

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 329.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 414.

The following Assembly amendment was read:

Amendment No. 716.

"SUMMARY—Revises provisions relating to financial institutions. (BDR 55-1107)"

"AN ACT relating to financial institutions; prohibiting a banking or other financial institution from unreasonably delaying a response to an offer for a ~~[short]~~ sale **in lieu of a foreclosure sale** on real property secured by a residential mortgage loan; prohibiting a banking or other financial institution from obtaining a deficiency judgment in certain circumstances; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee's sale if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust. For an obligation secured by a mortgage or deed of trust on or after October 1, 2009, a court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if: (1) the creditor or beneficiary is a financial institution; (2) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (3) the debtor or grantor used the loan to purchase the property; (4) the debtor or grantor occupied the property continuously after obtaining the loan; and (5) the debtor or grantor did not refinance the loan. (NRS 40.455) **Section ~~[4]~~ 3.5** of this bill prohibits a court from awarding a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if: (1) the creditor or beneficiary is a banking or other financial institution; (2) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (3) the debtor or grantor used the loan to purchase the property; (4) the debtor or grantor occupied the property continuously after obtaining the loan; (5) the debtor or grantor and the banking or other financial institution entered into an agreement ~~[, commonly known as a short sale,]~~ to sell the real property to a third party for less than the indebtedness; and (6) the agreement does not state the amount of money still owed by the debtor or grantor or does not authorize the banking or other financial institution to recover that money, and contains a statement that the banking or other financial institution has waived its right to recover the amount owed. **Section 3** of this bill prohibits a banking or other financial institution or its officers, managers or employees from unreasonably delaying its response to an offer for a ~~[short]~~ sale **in lieu of a foreclosure sale** on real property secured by a residential mortgage loan.

Under existing law, a violation of **section 3** constitutes a misdemeanor and, in addition to any criminal penalty, is punishable by an administrative fine of not more than $10,000. (NRS 668.112, 668.115)

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

Section 1. Chapter 668 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. ***1. A banking or other financial institution, or an officer, manager or employee of a banking or other financial institution, shall not unreasonably delay responding to an offer for a ~~[short]~~ sale in lieu of a foreclosure sale on real property secured by a residential mortgage loan.***

2. For the purposes of this section, a person is presumed to have unreasonably delayed responding to an offer for a ~~[short]~~ sale in lieu of a foreclosure sale on real property secured by a residential mortgage loan when the person fails to respond to an offer for a ~~[short]~~ sale in lieu of a foreclosure sale with an acceptance or rejection of the offer within 90 days after receipt of the offer, unless the parties have agreed in writing to a delay of more than 90 days after receipt of the offer.

3. As used in this section:

(a) "Banking or other financial institution" means any bank, savings and loan association, savings bank, thrift company, credit union or other financial institution that is licensed, registered or otherwise authorized to do business in this State.

(b) "Indebtedness" has the meaning ascribed to it in NRS 40.451.

(c) "Residential mortgage loan" has the meaning ascribed to it in NRS 645B.0132.

(d) ***~~["Short]~~ "Sale in lieu of a foreclosure sale" means a sale of real property pursuant to an agreement between a ~~[banking or other financial institution and an owner of real property to sell the real property secured by a residential mortgage loan to a third party for an amount less than the indebtedness secured thereby.]~~ 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 foreclosure.***

Sec. 3.5. **Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. If the judgment creditor or the beneficiary of the deed of trust who applies for a deficiency judgment is a banking or other financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if:

(a) The real property is a single-family dwelling and the debtor or the grantor of the deed of trust was the owner of the real property at the time of the sale in lieu of a foreclosure sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust;

(d) The debtor or grantor and the banking or other financial institution entered into an agreement to sell the real property secured by the mortgage or deed of trust to a third party for an amount less than the indebtedness secured thereby; and

(e) The agreement entered into pursuant to paragraph (d):

(1) Does not state the amount of money still owed to the banking or other financial institution by the debtor or grantor or does not authorize the banking or other financial institution to recover that amount from the debtor or grantor; and

(2) Contains a conspicuous statement that has been acknowledged by the signature of the debtor or grantor which provides that the banking or other financial institution has waived its right to recover the amount owed by the debtor or grantor and which sets forth the amount of recovery that is being waived.

2. As used in this section:

(a) "Banking or other financial institution" means any bank, savings and loan association, savings bank, thrift company, credit union or other financial institution that is licensed, registered or otherwise authorized to do business in this State.

(b) "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 foreclosure.

Sec. 4. ~~[NRS 40.455 is hereby amended to read as follows:~~

~~40.455 1. Except as otherwise provided in subsection 3 [,] *or 4,* upon application of the judgment creditor or the beneficiary of the deed of trust within 6 months after the date of the foreclosure sale or the trustee's sale held pursuant to NRS 107.080, respectively, and after the required hearing, the court shall award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due to the judgment creditor or the beneficiary of the deed of trust, respectively.~~

~~2. If the indebtedness is secured by more than one parcel of real property, more than one interest in the real property or more than one mortgage or deed of trust, the 6-month period begins to run after the date of the foreclosure sale or trustee's sale of the last parcel or other interest in the real property~~

~~securing the indebtedness, but in no event may the application be filed more than 2 years after the initial foreclosure sale or trustee's sale.~~

~~3. If the judgment creditor or the beneficiary of the deed of trust is a financial institution~~ **[**~~,~~**]** ~~*as defined in NRS 363A.050,* the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust, even if there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust, if:~~

~~(a) The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;~~

~~(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;~~

~~(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust; and~~

~~(d) The debtor or grantor did not refinance the mortgage or deed of trust after securing it.~~

~~4. *If the judgment creditor or the beneficiary of the deed of trust is a banking or other financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if:*~~

~~*(a) The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;*~~

~~*(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;*~~

~~*(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust;*~~

~~*(d) The debtor or grantor and the banking or other financial institution entered into an agreement to sell the real property secured by the mortgage or deed of trust to a third party for an amount less than the indebtedness secured thereby; and*~~

~~*(e) The agreement entered into pursuant to paragraph (d):*~~

~~*(1) Does not state the amount of money still owed to the banking or other financial institution by the debtor or grantor or does not authorize the banking or other financial institution to recover that amount from the debtor or grantor [.]* **;** ~~*and*~~

~~*(2) Contains a conspicuous statement that has been acknowledged by the signature of the debtor or grantor which provides that the banking or other financial institution has waived its right to recover the amount owed by the debtor or grantor and which sets forth the amount of recovery that is being waived.*~~

~~**5.** As used in this section, *"banking or other* financial institution" **[**~~has the meaning ascribed to it in NRS 363A.050.~~**]** ~~*means any bank, savings and loan association, savings bank, thrift company, credit union or other*~~

~~*financial institution that is licensed, registered or otherwise authorized to do business in this State.]*~~ **(Deleted by amendment.)**

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

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 414.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 32.

The following Assembly amendment was read:

Amendment No. 665.

"SUMMARY—Makes various changes relating to equalization of property valuations. (BDR 32-433)"

"AN ACT relating to the equalization of property valuations; extending under certain circumstances the deadline for appeals to county boards of equalization; extending certain deadlines for the State Board of Equalization to conclude the business of equalization; requiring the State Board to post a schedule of certain meetings on the Internet website of the Department of Taxation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

A taxpayer who desires to appeal the valuation of his or her property to a county board of equalization must file the appeal on or before January 15. (NRS 361.340) **Section 1** of this bill extends that deadline to the next business day if January 15 falls on a Saturday, Sunday or legal holiday.

The State Board of Equalization hears appeals from the actions of the county boards of equalization and is required to equalize property valuations in the State by reviewing the tax rolls of the various counties and raising or lowering assessed property values, if appropriate, to ensure a uniform and equal rate of assessment and taxation in this State. (NRS 361.395, 361.400) Existing law requires the State Board to conclude the business of equalization on or before April 15 on cases that in its opinion have a substantial effect on tax revenues, while cases having a less substantive effect on tax revenues may be heard at additional meetings before October 1. (NRS 361.380) **Section 3** of this bill instead requires that if a proposed equalization affects local governmental entities in more than one county and is likely to have a substantial effect on tax revenues, the State Board must notify each affected local governmental entity of the proposed equalization on or before April 30. In addition, **sections 2 and 3** of this bill extend the deadline for cases which have a less substantive effect, or those arising from decisions made in individual cases, to November 1. **Section 3** also requires the State Board to post a schedule of its meetings concerning such equalization on the Department of Taxation's Internet website ~~[and removes the requirement that the State Board publish]~~ **in addition to publishing** notice of meetings to be held in locations other than Carson City in a newspaper in the county where the meetings are to be held.

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

Section 1. NRS 361.340 is hereby amended to read as follows:

361.340 1. Except as otherwise provided in subsection 2, the board of equalization of each county consists of:

(a) Five members, only two of whom may be elected public officers, in counties having a population of 15,000 or more; and

(b) Three members, only one of whom may be an elected public officer, in counties having a population of less than 15,000.

2. The board of county commissioners may by resolution provide for an additional panel of like composition to be added to the board of equalization to serve for a designated fiscal year. The board of county commissioners may also appoint alternate members to either panel.

3. A district attorney, county treasurer or county assessor or any of their deputies or employees may not be appointed to the county board of equalization.

4. The chair of the board of county commissioners shall nominate persons to serve on the county board of equalization who are sufficiently experienced in business generally to be able to bring knowledge and sound judgment to the deliberations of the board or who are elected public officers. The nominees must be appointed upon a majority vote of the board of county commissioners. The chair of the board of county commissioners shall designate one of the appointees to serve as chair of the county board of equalization.

5. Except as otherwise provided in this subsection, the term of each member is 4 years and any vacancy must be filled by appointment for the unexpired term. The term of any elected public officer expires upon the expiration of the term of his or her elected office.

6. The county clerk or his or her designated deputy is the clerk of each panel of the county board of equalization.

7. Any member of the county board of equalization may be removed by the board of county commissioners if, in its opinion, the member is guilty of malfeasance in office or neglect of duty.

8. The members of the county board of equalization are entitled to receive per diem allowance and travel expenses as provided for state officers and employees. The board of county commissioners of any county may by resolution provide for compensation to members of the board of equalization in its county who are not elected public officers as it deems adequate for time actually spent on the work of the board of equalization. In no event may the rate of compensation established by a board of county commissioners exceed $125 per day.

9. A majority of the members of the county board of equalization constitutes a quorum, and a majority of the board determines the action of the board.

10. A county board of equalization shall comply with any applicable regulation adopted by the Nevada Tax Commission.

11. The county board of equalization of each county shall hold such number of meetings as may be necessary to care for the business of equalization presented to it. Every appeal to the county board of equalization must be filed not later than January 15. ***If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.*** Each county board shall cause to be published, in a newspaper of general circulation published in that county, a schedule of dates, times and places of the board meetings at least 5 days before the first meeting. The county board of equalization shall conclude the business of equalization on or before the last day of February of each year except as to matters remanded by the State Board of Equalization. The State Board of Equalization may establish procedures for the county boards, including setting the period for hearing appeals and for setting aside time to allow the county board to review and make final determinations. The district attorney or his or her deputy shall be present at all meetings of the county board of equalization to explain the law and the board's authority.

12. The county assessor or his or her deputy shall attend all meetings of each panel of the county board of equalization.

Sec. 2. NRS 361.360 is hereby amended to read as follows:

361.360 1. Any taxpayer aggrieved at the action of the county board of equalization in equalizing, or failing to equalize, the value of his or her property, or property of others, or a county assessor, may file an appeal with the State Board of Equalization on or before March 10 and present to the State Board of Equalization the matters complained of at one of its sessions. If March 10 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. All such appeals must be presented upon the same facts and evidence as were submitted to the county board of equalization in the first instance, unless there is discovered new evidence pertaining to the matter which could not, by due diligence, have been discovered before the final adjournment of the county board of equalization. The new evidence must be submitted in writing to the State Board of Equalization and served upon the county assessor not less than 7 days before the hearing.

3. Any taxpayer whose real or personal property placed on the unsecured tax roll was assessed after December 15 but before or on the following April 30 may likewise protest to the State Board of Equalization. Every such appeal must be filed on or before May 15. If May 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day. A meeting must be held before May 31 to hear those protests that in the opinion of the State Board of Equalization may have a substantial effect on tax revenues. One or more meetings may be held at any time and place in the State before ~~[October]~~ ***November*** 1 to hear all other protests.

4. The State Board of Equalization may not reduce the assessment of the county assessor if:

(a) The appeal involves an assessment on property which the taxpayer has refused or, without good cause, has neglected to include in the list required of the taxpayer pursuant to NRS 361.265 or if the taxpayer has refused or, without good cause, has neglected to provide the list to the county assessor; or

(b) The taxpayer has, without good cause, refused entry to the assessor for the purpose of conducting the physical examination authorized by NRS 361.260.

5. Any change made in an assessment appealed to the State Board of Equalization is effective only for the fiscal year for which the assessment was made. The county assessor shall review each such change and maintain or remove the change as circumstances warrant for the next fiscal year.

6. If the State Board of Equalization determines that the record of a case on appeal from the county board of equalization is inadequate because of an act or omission of the county assessor, the district attorney or the county board of equalization, the State Board of Equalization may remand the case to the county board of equalization with directions to develop an adequate record within 30 days after the remand. The directions must indicate specifically the inadequacies to be remedied. If the State Board of Equalization determines that the record returned from the county board of equalization after remand is still inadequate, the State Board of Equalization may hold a hearing anew on the appellant's complaint or it may, if necessary, contract with an appropriate person to hear the matter, develop an adequate record in the case and submit recommendations to the State Board. The cost of the contract and all costs, including attorney's fees, to the State or the appellant necessary to remedy the inadequate record on appeal are a charge against the county.

Sec. 3. NRS 361.380 is hereby amended to read as follows:

361.380 1. Except as otherwise provided in subsection 3, annually, the State Board of Equalization shall convene on the fourth Monday in March in Carson City, Nevada, and shall hold such number of meetings as may be necessary to care for the business of equalization presented to it. ~~[The]~~ ***If a proposed equalization affects local governmental entities in more than one county and the equalization, in the opinion of the State Board of Equalization, is likely to have a substantial effect on tax revenues, the*** State Board of Equalization shall ~~[conclude the business]~~ ***notify each affected local governmental entity*** **of** ***the proposed*** equalization on ~~[cases that in its opinion have a substantial effect on tax revenues on]~~ or before April ~~[15. Cases having less than a substantial effect on tax revenues]~~ ***30. Cases*** may be heard at additional meetings which may be held at any time and place in the state before ~~[October]~~ ***November*** 1.

2. The publication in the statutes of the foregoing time, place and purpose of each regular session of the State Board of Equalization is notice

of such sessions, or if it so elects, the State Board of Equalization may cause published notices of such regular sessions to be made in the press, or may notify parties in interest by letter or otherwise.

3. The State Board of Equalization may designate some place other than Carson City, Nevada, for any of the meetings specified in subsection 1. If such other place is so designated, notice thereof must be given by publication of a notice once a week for 2 consecutive weeks in some newspaper of general circulation in the county in which such meeting or meetings are to be held. ~~*[In addition to any other notice required by law, the]*~~ ***The State Board of Equalization must also post a schedule of each such meeting on the Internet website maintained by the Department.***

Sec. 4. NRS 361.405 is hereby amended to read as follows:

361.405 1. The Secretary of the State Board of Equalization forthwith shall certify any change made by the Board in the assessed valuation of any property in whole or in part to the county auditor of the county where the property is assessed, and whenever the valuation of any property is raised, the Secretary of the State Board of Equalization shall forward by certified mail to the property owner or owners affected, notice of the increased valuation.

2. As soon as changes resulting from cases having a substantial effect on tax revenues have been certified to the county auditor by the Secretary of the State Board of Equalization, the county auditor shall:

(a) Enter all such changes and the value of any construction work in progress and net proceeds of minerals which were certified to him or her by the Department, on the assessment roll before the delivery thereof to the tax receiver.

(b) Add up the valuations and enter the total valuation of each kind of property and the total valuation of all property on the assessment roll.

(c) Certify the results to the board of county commissioners and the Department . ~~[on or before April 15 of each year.]~~

3. The board of county commissioners shall not levy a tax on the net proceeds of minerals added to the assessed valuation pursuant to paragraph (a) of subsection 2, but, except as otherwise provided by specific statute, the net proceeds of minerals must be included in the assessed valuation of the taxable property of the county and all local governments in the county for the determination of the rate of tax and all other purposes for which assessed valuation is used.

4. As soon as changes resulting from cases having less than a substantial effect on tax revenue have been certified to the county tax receiver by the Secretary of the State Board of Equalization, the county tax receiver shall adjust the assessment roll or the tax statement or make a tax refund, as directed by the State Board of Equalization.

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

Senator Leslie moved that the Senate concur in the Assembly amendment to Senate Bill No. 32.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 34.

The following Assembly amendments were read:

Amendment No. 666.

"SUMMARY—Makes various changes regarding the administration of sales and use taxes. (BDR 32-432)"

"AN ACT relating to taxation; revising the provisions governing the administration of sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement, apply the taxes to retailers whose activities have a sufficient nexus with this State and provide for the rebuttal of certain presumptions regarding the application of use taxes to property delivered outside of or brought into this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the administration of sales and use taxes in this State pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 360B, 372 and 374 of NRS) Under existing law, the Legislature has found and declared that this State should enter into an interstate agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and types of commerce. (NRS 360B.020) Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions reasonably required to implement the provisions of the Agreement. (NRS 360B.110)

This bill carries out various requirements of the Streamlined Sales and Use Tax Agreement. **Sections 2 and 26** of this bill replace superseded requirements for purchases of direct mail with new requirements regarding the sourcing of those transactions to various jurisdictions and the respective responsibilities of sellers and purchasers for the collection, reporting and payment of the applicable taxes. **Section 3** of this bill sets forth a new requirement regarding the registration of certain sellers who anticipate making no sales into certain states. **Sections 3, 14 and 23** of this bill carry out a new requirement to allow the electronic filing of simplified tax returns. **Sections 4 and 7** of this bill carry out a recent amendment to the Agreement governing the taxation of delivery charges. **Section 4.5** of this bill carries out a recent amendment to the Agreement regarding the due dates for tax returns and payments. **Sections 13 and 22** of this bill set forth new requirements regarding the liability of a seller for accepting certain certificates of exemption which indicate that the claimed exemption is not available. **Sections 5 and 6** of this bill delete certain provisions of the Agreement that

do not apply in this State. **Sections 9, 10, 18 and 19** of this bill delete a requirement for good faith which is not allowed by the Agreement.

Under existing law, the Commerce Clause of the United States Constitution prohibits a state from requiring a retailer to collect sales and use taxes unless the activities of the retailer have a substantial nexus with the taxing state. (*Quill Corp. v. North Dakota*, 504 U.S. 298, 112 S.Ct. 1904 (1992)) **Sections 8 and 17** of this bill apply the sales and use taxes imposed in this State to every retailer whose activities have such a nexus.

Existing law creates various presumptions regarding the application of the use taxes imposed in this State to property which is delivered outside of this State to a purchaser or brought into this State by a purchaser. (NRS 372.250, 372.255, 372.258, 374.255, 374.260, 374.263) **Sections 11, 12, 20, 21 and 26** of this bill revise that law to specify the methods for controverting a presumption that those taxes apply.

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

Section 1. NRS 360.299 is hereby amended to read as follows:

360.299 1. In determining the amount of:

(a) Sales tax due on a sale at retail, the rate of tax used must be the sum of the rates of all taxes imposed upon sales at retail in:

(1) The county determined pursuant to the provisions of NRS 360B.350 to 360B.375, inclusive ~~[,]~~ ***, or section 2 of this act;*** or

(2) If those provisions do not apply to the sale, the county in which the property is or will be delivered to the purchaser or the agent or designee of the purchaser.

(b) Use tax due on the purchase of tangible personal property for use, storage or other consumption in this state, the rate of tax used must be the sum of the rates of all taxes imposed upon the use, storage or other consumption of property in:

(1) The county determined pursuant to the provisions of NRS 360B.350 to 360B.375, inclusive ~~[,]~~ ***, or section 2 of this act;*** or

(2) If those provisions do not apply to the purchase, the county in which the property is first used, stored or consumed.

2. In determining the amount of taxes due pursuant to subsection 1:

(a) The amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.

(b) A retailer may compute the amount due on a transaction on the basis of each item involved in the transaction or a single invoice for the entire transaction.

3. On or before January 1 of each year, the Department shall transmit to each retailer to whom a permit has been issued a notice which contains the provisions of subsections 1 and 2 and NRS 372.365.

Sec. 2. Chapter 360B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:

(a) A purchaser of advertising and promotional direct mail may provide the seller with:

(1) Documentation of the direct pay permit of the purchaser issued pursuant NRS 360B.260;

(2) A certificate or written statement, in a form approved by the Department in accordance with the provisions of the Agreement, claiming the direct mail; or

(3) An informational statement of the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients.

(b) If the purchaser provides the documentation, certificate or statement pursuant to subparagraph (1) or (2) of paragraph (a), the sale shall be deemed to take place in the jurisdictions to which the advertising and promotional direct mail is to be delivered to the recipients and:

(1) If the seller does not maintain a place of business in this State:

(I) The purchaser shall report and pay any applicable sales or use taxes due; and

(II) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the advertising and promotional direct mail to which the documentation, certificate or statement applies; or

(2) If the seller maintains a place of business in this State:

(I) The seller shall collect and remit any applicable sales or use taxes due in this State;

(II) The purchaser shall report and pay any applicable sales or use taxes due in any other state; and

(III) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the advertising and promotional direct mail to which the documentation, certificate or statement applies which are due in any other state.

(c) If the purchaser provides the informational statement pursuant to subparagraph (3) of paragraph (a):

(1) The sale shall be deemed to take place in the jurisdictions to which the advertising and promotional direct mail is to be delivered;

(2) The seller shall collect and remit any applicable sales or use taxes due to those jurisdictions; and

(3) If the seller complies with subparagraph (2) in accordance with the delivery information provided by the purchaser, the seller, in the absence of bad faith, is relieved of any further obligation to collect any additional sales or use taxes on the sale.

(d) If the purchaser does not provide the seller with any of the items listed in paragraph (a), the sale shall be deemed to take place at the location described in subsection 5 of NRS 360B.360. The state to which the

advertising and promotional direct mail is delivered may disallow credit for any sales or use taxes paid in accordance with this paragraph.

2. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:

(a) Except as otherwise provided in this subsection, the sale of other direct mail shall be deemed to take place at the location described in subsection 3 of NRS 360B.360.

(b) A purchaser of other direct mail may provide the seller with:

(1) Documentation of the direct pay permit of the purchaser issued pursuant NRS 360B.260; or

(2) A certificate or written statement, in a form approved by the Department in accordance with the provisions of the Agreement, claiming the direct mail.

(c) If the purchaser provides the documentation, certificate or statement pursuant to paragraph (b), the sale shall be deemed to take place in the jurisdictions to which the other direct mail is to be delivered to the recipients and:

(1) If the seller does not maintain a place of business in this State:

(I) The purchaser shall report and pay any applicable sales or use taxes due; and

(II) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the other direct mail to which the documentation, certificate or statement applies; or

(2) If the seller maintains a place of business in this State:

(I) The seller shall collect and remit any applicable sales or use taxes due in this State;

(II) The purchaser shall report and pay any applicable sales or use taxes due in any other state; and

(III) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the other direct mail to which the documentation, certificate or statement applies which are due in any other state.

3. This section does not apply to any transaction that includes the development of billing information or the provision of any data processing service that is more than incidental, regardless of whether any advertising and promotional direct mail is included in the same mailing.

4. If a transaction is a bundled transaction, as defined by a regulation of the Department in accordance with the provisions of the Agreement, that includes advertising and promotional direct mail, this section applies only if the primary purpose of the transaction is the sale of products that meet the definition set forth in paragraph (a) of subsection 6.

5. The provisions of this section do not limit any purchaser's:

(a) Liability for any sales or use taxes to any states to which the direct mail is delivered;

(b) Rights under local, state, federal or constitutional law, to a credit for sales or use taxes due and paid to other jurisdictions; or

(c) Right to a refund of any sales or use taxes overpaid to any jurisdiction.

6. As used in this section:

(a) "Advertising and promotional direct mail" means direct mail, the primary purpose of which is to attract public attention to a product, person, business or organization, or to attempt to sell, popularize or secure financial support for a product, person, business or organization. As used in this paragraph, "product" means tangible personal property, a product transferred electronically or a service.

(b) "Direct mail" means printed material delivered or distributed by the United States Postal Service or another delivery service to a mass audience or to addresses contained on a mailing list provided by a purchaser or at the direction of a purchaser when the cost of the items purchased is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the seller of the direct mail for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.

(c) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether any advertising and promotional direct mail is included in the same mailing. The term:

(1) Includes, but is not limited to:

(I) Transactional direct mail that contains personal information specific to the addressee, including, but not limited to, invoices, bills, statements of account and payroll advices;

(II) Any legally required mailings, including, but not limited to, privacy notices, tax reports and stockholder reports; and

(III) Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees or agents, including, but not limited to, newsletters and informational pieces; and

(2) Does not include the development of billing information or the provision of any data processing service that is more than incidental.

Sec. 3. NRS 360B.200 is hereby amended to read as follows:

360B.200 1. The Department shall, in cooperation with any other states that are members of the Agreement, establish and maintain a central, electronic registration system that allows a seller to register to collect and remit the sales and use taxes imposed in this State and in the other states that are members of the Agreement.

2. A seller who registers pursuant to this section agrees to collect and remit sales and use taxes in accordance with the provisions of this chapter, the regulations of the Department and the applicable law of each state that is a member of the Agreement, including any state that becomes a member of the Agreement after the registration of the seller pursuant to this section. The

cancellation or revocation of the registration of a seller pursuant to this section, the withdrawal of a state from the Agreement or the revocation of the Agreement does not relieve a seller from liability pursuant to this subsection to remit any taxes previously or subsequently collected on behalf of a state.

3. When registering pursuant to this section, a seller may:

(a) Elect to use a certified service provider as its agent to perform all the functions of the seller relating to sales and use taxes, other than the obligation of the seller to remit the taxes on its own purchases;

(b) Elect to use a certified automated system to calculate the amount of sales or use taxes due on its sales transactions;

(c) Under such conditions as the Department deems appropriate in accordance with the Agreement, elect to use its own proprietary automated system to calculate the amount of sales or use taxes due on its sales transactions; or

(d) Elect to use any other method authorized by the Department for performing the functions of the seller relating to sales and use taxes.

4. ***A seller who registers pursuant to this section and does not make the election allowed pursuant to paragraph (a) of subsection 3 may elect to be registered in any state that:***

(a) Is a member of the Agreement at the time of that registration, as a seller who anticipates making no sales into that state if the seller has not had any sales into that state for the preceding 12 months; and

(b) Becomes a member of the Agreement after that registration, as a seller who anticipates making no sales into that state.

5. A seller who registers pursuant to this section agrees to submit its sales and use tax returns, and to remit any sales and use taxes due, to the Department at such times and in such a manner and format as the Department prescribes by regulation. Those regulations must:

(a) Require from each seller who registers pursuant to this section:

(1) Only ~~[one]~~ ***a single*** tax return for each taxing period for all the sales and use taxes collected on behalf of this State and each local government in this State; and

(2) Only one remittance of taxes for each tax return, except that the Department may require additional remittances of taxes if the seller:

(I) Collects more than $30,000 in sales and use taxes on behalf of this State and the local governments in this State during the preceding calendar year;

(II) Is allowed to determine the amount of any additional remittance by a method of calculation instead of by the actual amount collected; and

(III) Is not required to file any tax returns in addition to those otherwise required in accordance with this subsection.

(b) Allow any seller who registers pursuant to this section ~~[and makes an election pursuant to paragraph (a), (b) or (c) of subsection 3]~~ to submit tax returns ***electronically*** in a simplified format . ~~[that does not include any more data fields than are permitted in accordance with the Agreement.]~~

(c) Allow any seller who registers pursuant to this section, does not maintain a place of business in this State and has not made an election pursuant to paragraph (a), (b) or (c) of subsection 3, to file tax returns at a frequency that does not exceed once per year unless the seller accumulates more than $1,000 in the collection of sales and use taxes on behalf of this State and the local governments in this State.

(d) Provide an alternative method for a seller who registers pursuant to this section to make tax payments the same day as the seller intends if an electronic transfer of money fails.

(e) Require any data that accompanies the remittance of a tax payment by or on behalf of a seller who registers pursuant to this section to be formatted using uniform codes for the type of tax and payment in accordance with the Agreement.

~~[5.]~~ ***6.*** The registration of a seller and the collection and remission of sales and use taxes pursuant to this section may not be considered as a factor in determining whether a seller has a nexus with this State for the purposes of determining the liability of the seller to pay any tax imposed by this State.

Sec. 4. NRS 360B.290 is hereby amended to read as follows:

360B.290 Any invoice, billing or other document given to a purchaser that indicates the sales price for which tangible personal property is sold ~~[must]~~ ***:***

1. ***May*** state separately any amount received by the seller for ~~[:~~

~~1. Any]~~ ***any*** transportation, shipping or postage charges for the delivery of the property to a location designated by the purchaser ~~[.]~~ ***; and***

2. Must state separately any amount received by the seller for:

(a) Any installation charges for the property;

~~[3.]~~ ***(b)*** Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;

~~[4.]~~ ***(c)*** Any interest, financing and carrying charges from credit extended on the sale; and

~~[5.]~~ ***(d)*** Any taxes legally imposed directly on the consumer.

Sec. 4.5. NRS 360B.300 is hereby amended to read as follows:

360B.300 Notwithstanding the provisions of any other specific statute ~~[, if]~~ ***:***

1. ***If*** any sales or use tax is due and payable on ~~[a]~~ ***:***

(a) A Saturday, Sunday or legal holiday, the tax may be paid on the next succeeding business day ~~[.]~~ ***; or***

(b) A day on which a Federal Reserve bank is closed and, as a result of that closure, the taxpayer is not able to remit the tax electronically in accordance with the regulations adopted by the Department pursuant to NRS 360.092, the tax may be paid on the next succeeding day on which the Federal Reserve bank is open.

2. If any sales or use tax return is:

(a) Due on a Saturday, Sunday or legal holiday, the return may be filed on the next succeeding business day; or

(b) Required to be filed in conjunction with a remittance of the tax and paragraph (b) of subsection 1 applies to that remittance, the return may be filed on the same day as the tax may be paid in accordance with that paragraph.

Sec. 5. NRS 360B.350 is hereby amended to read as follows:

360B.350 As used in NRS 360B.350 to 360B.375, inclusive:

1. "Receive" means taking possession of ~~[or making the first use of]~~ tangible personal property **.** ~~[, whichever occurs first.]~~ The term does not include possession by a shipping company on behalf of a purchaser.

2. "Transportation equipment" means:

(a) Locomotives and railcars used for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors having a manufacturer's gross vehicle weight rating of more than 10,000 pounds, and trailers, semitrailers and passenger buses that are:

(1) Registered pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or

(2) Operated under the authority of a carrier who is authorized by the Federal Government to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft operated by an air carrier who is authorized by the Federal Government or a foreign government to engage in the carriage of persons or property in interstate or foreign commerce.

(d) Containers designed for use on and component parts attached or secured to any of the items described in paragraph (a), (b) or (c).

Sec. 5.5. NRS 360B.355 is hereby amended to read as follows:

360B.355 1. Except as otherwise provided in this section ~~[,]~~ ***and section 2 of this act,*** for the purpose of determining the liability of a seller for sales and use taxes, a retail sale shall be deemed to take place at the location determined pursuant to NRS 360B.350 to 360B.375, inclusive.

2. NRS 360B.350 to 360B.375, inclusive, do not:

(a) Affect any liability of a purchaser or lessee for a use tax.

(b) Apply to:

(1) The retail sale or transfer of watercraft, modular homes, manufactured homes or mobile homes.

(2) The retail sale, other than the lease or rental, of motor vehicles, trailers, semitrailers or aircraft that do not constitute transportation equipment.

Sec. 6. NRS 360B.360 is hereby amended to read as follows:

360B.360 Except as otherwise provided in NRS 360B.350 to 360B.375, inclusive, the retail sale, excluding the lease or rental, of tangible personal property shall be deemed to take place:

1. If the property is received by the purchaser at a place of business of the seller, at that place of business.

2. If the property is not received by the purchaser at a place of business of the seller:

(a) At the location indicated to the seller pursuant to any instructions provided for the delivery of the property to the purchaser or to another recipient who is designated by the purchaser as his or her donee; or

(b) If no such instructions are provided and if known by the seller, at the location where the purchaser or another recipient who is designated by the purchaser as his or her donee, receives the property.

3. If subsections 1 and 2 do not apply, at the address of the purchaser indicated in the business records of the seller that are maintained in the ordinary course of the seller's business, unless the use of that address would constitute bad faith.

4. If subsections 1, 2 and 3 do not apply, at the address of the purchaser obtained during the consummation of the sale, including, if no other address is available, the address of the purchaser's instrument of payment, unless the use of an address pursuant to this subsection would constitute bad faith.

5. In all other circumstances, at the address from which the property was shipped . ~~[or, if it was delivered electronically, at the address from which it was first available for transmission by the seller.]~~

Sec. 7. NRS 360B.480 is hereby amended to read as follows:

360B.480 1. "Sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:

(a) The seller's cost of the property sold;

(b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges which are not stated separately pursuant to ***subsection 1 of*** NRS 360B.290 and excluding any installation charges which are stated separately pursuant to ***subsection 2 of*** NRS 360B.290; and

(d) Except as otherwise provided in subsection 2, any credit for any trade-in.

2. The term does not include:

(a) Any delivery charges which are stated separately pursuant to ***subsection 1 of*** NRS 360B.290;

(b) Any installation charges which are stated separately pursuant to ***subsection 2 of*** NRS 360B.290;

(c) Any credit for any trade-in which is:

(1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and

(2) Stated separately pursuant to ***subsection 2 of*** NRS 360B.290;

(d) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;

(e) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to ***subsection 2 of*** NRS 360B.290; and

(f) Any taxes legally imposed directly on the consumer which are stated separately pursuant to ***subsection 2 of*** NRS 360B.290.

3. The term includes consideration received by a seller from a third party if:

(a) The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(b) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(c) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(d) Any of the following criteria is satisfied:

(1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.

(2) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount. For the purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.

(3) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

Sec. 8. Chapter 372 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this chapter relating to:

(a) The imposition, collection and remittance of the sales tax apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.

(b) The collection and remittance of the use tax apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.

2. In administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in this State" in accordance with the provisions of subsection 1.

Sec. 9. NRS 372.155 is hereby amended to read as follows:

372.155 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax, it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes ~~[in good faith]~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

(a) The third-party vendor:

(1) Takes ~~[in good faith]~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 10. NRS 372.225 is hereby amended to read as follows:

372.225 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes ~~[in good faith]~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes ~~[in good faith]~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 11. NRS 372.250 is hereby amended to read as follows:

372.250 ***1.*** It is presumed that tangible personal property shipped or brought to this State by the purchaser on or after July 1, 1979, was purchased from a retailer on or after July 1, 1979, for storage, use or other consumption in this State.

2. This presumption may be controverted by the vendor or purchaser by evidence showing that the property was stored or used:

(a) Exclusively outside of this State during the initial 30 days after its purchase; and

(b) Outside of this State for a majority of the time during the initial 12 months after its purchase.

Sec. 12. NRS 372.255 is hereby amended to read as follows:

372.255 1. ~~[Except as otherwise provided in NRS 372.258, on]~~ ***On*** and after July 1, 1979, it is presumed that tangible personal property delivered outside this State to a purchaser known by the retailer to be a resident of this State was purchased from a retailer for storage, use or other consumption in this State and stored, used or otherwise consumed in this State.

2. This presumption may be controverted by:

(a) ~~[A]~~ ***The vendor by a written*** statement ~~[in writing, signed by the purchaser or his or her authorized representative, and retained by the vendor,]~~ that the property was purchased for use at a designated point or points outside this State ~~[.~~

~~(b) Other evidence satisfactory to the Department that the property was not purchased for storage, use or other consumption in this State.]~~ ***, if the statement is:***

(1) Signed by the purchaser or his or her authorized representative; and

(2) Taken and retained by the vendor ***:*** ~~*[in good faith;]*~~ ***or***

(b) The vendor or purchaser by evidence showing that the property was stored or used:

(1) Exclusively outside of this State during the initial 30 days after its purchase; and

(2) Outside of this State for a majority of the time during the initial 12 months after its purchase.

Sec. 13. NRS 372.347 is hereby amended to read as follows:

372.347 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such ~~[identifying]~~

information from the purchaser ~~[at the time of sale]~~ as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer ~~[fraudulently]~~ ***:***

(a) Fraudulently fails to collect the tax ~~[or solicits]~~ ***;***

(b) Solicits a purchaser to participate in an unlawful claim of an exemption ~~[.]~~ ***; or***

(c) Accepts a certificate of exemption from a purchaser who claims an entity-based exemption, the subject of the transaction sought to be covered by the certificate is actually received by the purchaser at a location operated by the seller, and the Department provides, and posts on a website or other Internet site that is operated or administered by or on behalf of the Department, a certificate of exemption which clearly and affirmatively indicates that the claimed exemption is not available.

6. As used in this section ~~[, "retailer"]~~ ***:***

(a) "Entity-based exemption" means an exemption based on who purchases the product or who sells the product, and which is not available to all.

(b) "Retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.

Sec. 14. NRS 372.360 is hereby amended to read as follows:

372.360 Except as otherwise required by the Department pursuant to NRS 360B.200:

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form ***and manner*** as the Department may prescribe. Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 374 of NRS.

2. For purposes of:

(a) The sales tax, a return must be filed by each seller.

(b) The use tax, a return must be filed by each retailer maintaining a place of business in the State and by each person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due.

3. ~~[~~Returns~~]~~ ***Unless filed electronically, returns*** must be signed by the person required to file the return or by his or her authorized agent but need not be verified by oath.

Sec. 15. NRS 372.365 is hereby amended to read as follows:

372.365 1. Except as otherwise required by the Department pursuant to NRS 360B.200 or provided in NRS 360B.350 to 360B.375, inclusive ~~[.]~~ ***, or section 2 of this act:***

(a) For the purposes of the sales tax:

(1) The return must show the gross receipts of the seller during the preceding reporting period.

(2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

(3) A sale pertains to the county in this State in which the tangible personal property is or will be delivered to the purchaser or his or her agent or designee.

(b) For purposes of the use tax:

(1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

(2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

(3) If the property was:

(I) Brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property is or will be first used, stored or otherwise consumed.

(II) Not brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property was delivered to the purchaser or his or her agent or designee.

2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this State in which the property was first used, stored or consumed.

3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

4. Except as otherwise provided in subsection 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or $1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or $3,000, whichever is less.

5. For the purposes of subsection 4, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

Sec. 16. NRS 372.375 is hereby amended to read as follows:

372.375 1. Except as otherwise ***authorized or*** required by the Department ***,*** ~~[pursuant to NRS 360B.200,]~~ the person required to file a return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed pursuant to NRS 360.092.

Sec. 17. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this chapter relating to:

(a) The imposition, collection and remittance of the sales tax apply to every retailer whose activities have a sufficient nexus with a county to satisfy the requirements of the United States Constitution.

(b) The collection and remittance of the use tax apply to every retailer whose activities have a sufficient nexus with a county to satisfy the requirements of the United States Constitution.

2. In administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in a county" in accordance with the provisions of subsection 1.

Sec. 18. NRS 374.160 is hereby amended to read as follows:

374.160 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes ~~[in good faith]~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

(a) The third-party vendor:

(1) Takes ~~[in good faith]~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 19. NRS 374.230 is hereby amended to read as follows:

374.230 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in a county is sold for storage, use or other consumption in the county until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes ~~[in good faith]~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes ~~[in good faith]~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 20. NRS 374.255 is hereby amended to read as follows:

374.255 ***1.*** It ~~[shall be further]~~ ***is*** presumed that tangible personal property shipped or brought to a county by the purchaser after July 1, 1967,

was purchased from a retailer on or after July 1, 1967, for storage, use or other consumption in the county.

2. This presumption may be controverted by the vendor or purchaser by evidence showing that the property was stored or used:

(a) Exclusively outside of a county during the initial 30 days after its purchase; and

(b) Outside of a county for a majority of the time during the initial 12 months after its purchase.

Sec. 21. NRS 374.260 is hereby amended to read as follows:

374.260 1. ~~[Except as otherwise provided in NRS 374.263, on]~~ ***On*** and after July 1, 1967, it is ~~[further]~~ presumed that tangible personal property delivered outside this State to a purchaser known by the retailer to be a resident of the county was purchased from a retailer for storage, use or other consumption in the county and stored, used or otherwise consumed in the county.

2. This presumption may be controverted by:

(a) ~~[A]~~ ***The vendor by a written*** statement ~~[in writing, signed by the purchaser or his or her authorized representative, and retained by the vendor,]~~ that the property was purchased for use at a designated point or points outside this State ~~[.~~

~~(b) Other evidence satisfactory to the Department that the property was not purchased for storage, use or other consumption in this State.]~~ ***, if the statement is:***

(1) Signed by the purchaser or his or her authorized representative; and

(2) Taken and retained by the vendor ***;*** ~~*[in good faith;]*~~ ***or***

(b) The vendor or purchaser by evidence showing that the property was stored or used:

(1) Exclusively outside of this State during the initial 30 days after its purchase; and

(2) Outside of this State for a majority of the time during the initial 12 months after its purchase.

Sec. 22. NRS 374.352 is hereby amended to read as follows:

374.352 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such ~~[identifying]~~ information from the purchaser ~~[at the time of sale]~~ as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer ~~[~~fraudulently~~]~~ ***:***

(a) Fraudulently fails to collect the tax ~~[~~or solicits~~]~~ ***;***

(b) Solicits a purchaser to participate in an unlawful claim of an exemption ~~[.]~~ ***; or***

(c) Accepts a certificate of exemption from a purchaser who claims an entity-based exemption, the subject of the transaction sought to be covered by the certificate is actually received by the purchaser at a location operated by the seller, and the Department provides, and posts on a website or other Internet site that is operated or administered by or on behalf of the Department, a certificate of exemption which clearly and affirmatively indicates that the claimed exemption is not available.

6. As used in this section ~~[~~, "retailer"~~]~~ ***:***

(a) "Entity-based exemption" means an exemption based on who purchases the product or who sells the product, and which is not available to all.

(b) "Retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.

Sec. 23. NRS 374.365 is hereby amended to read as follows:

374.365 Except as otherwise required by the Department pursuant to NRS 360B.200:

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form ***and manner*** as the Department may prescribe. Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 372 of NRS.

2. For purposes of:

(a) The sales tax, a return must be filed by every seller.

(b) The use tax, a return must be filed by every retailer maintaining a place of business in the county and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due.

3. ~~[~~Returns~~]~~ ***Unless filed electronically, returns*** must be signed by the person required to file the return or by his or her authorized agent but need not be verified by oath.

Sec. 24. NRS 374.370 is hereby amended to read as follows:

374.370 1. Except as otherwise required by the Department pursuant to NRS 360B.200 or provided in NRS 360B.350 to 360B.375, inclusive ~~[:]~~ ***, or section 2 of this act:***

(a) For the purposes of the sales tax:

(1) The return must show the gross receipts of the seller during the preceding reporting period.

(2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

(3) A sale pertains to the county in this State in which the tangible personal property is or will be delivered to the purchaser or his or her agent or designee.

(b) For purposes of the use tax:

(1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

(2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

(3) If the property was:

(I) Brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property is or will be first used, stored or otherwise consumed.

(II) Not brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property was delivered to the purchaser or his or her agent or designee.

2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this State in which the property was first used, stored or consumed.

3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

4. Except as otherwise provided in subsection 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or $1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or $3,000, whichever is less.

5. For the purposes of subsection 4, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

Sec. 25. NRS 374.380 is hereby amended to read as follows:

374.380 1. Except as otherwise ***authorized or*** required by the Department , ~~[pursuant to NRS 360B.200,]~~ the person required to file a return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed pursuant to NRS 360.092.

Sec. 26. NRS 360B.280, 372.258 and 374.263 are hereby repealed.

Sec. 27. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTIONS

360B.280 Purchases of direct mail.

1. A purchaser of direct mail must provide to the seller at the time of the purchase:

(a) If the seller does not maintain a place of business in this State:

(1) A form for direct mail approved by the Department;

(2) An informational statement of the jurisdictions to which the direct mail will be delivered to recipients; or

(3) Documentation of the direct pay permit of the purchaser issued pursuant to NRS 360B.260; or

(b) If the seller maintains a place of business in this State, an informational statement of the jurisdictions to which the direct mail will be delivered to recipients.

➥ If a purchaser of direct mail provides documentation of a direct pay permit to a seller in accordance with subparagraph (3) of paragraph (a), the seller shall not require the purchaser to comply with any other provision of that paragraph.

2. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:

(a) Upon the receipt pursuant to subsection 1 of:

(1) A form for direct mail by a seller who does not maintain a place of business in this State:

(I) The seller is relieved of any liability for the collection, payment or remission of any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller; and

(II) The purchaser is liable for any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller.

➥ Any form for direct mail provided to a seller pursuant to this subparagraph applies to all future sales of direct mail made by that seller to that purchaser until the purchaser delivers a written notice of revocation to the seller.

(2) An informational statement by any seller, the seller shall collect, pay or remit any applicable sales and use taxes in accordance with the information contained in that statement. In the absence of bad faith, the seller is relieved of any liability to collect, pay or remit any sales and use taxes other than in accordance with that information received.

(b) If a purchaser of direct mail does not comply with subsection 1, the seller shall determine the location of the sale pursuant to subsection 5 of NRS 360B.360 and collect, pay or remit any applicable sales and use taxes. This paragraph does not limit the liability of the purchaser for the payment of any of those taxes.

3. As used in this section, "direct mail" means printed material delivered or distributed by the United States Postal Service or another delivery service to a mass audience or to addresses contained on a mailing list provided by a purchaser or at the direction of a purchaser when the cost of the items purchased is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the seller of the direct mail for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.

372.258 Presumption that certain property delivered outside this State was not purchased for use in this State.

1. It is presumed that tangible personal property delivered outside this State to a purchaser was not purchased from a retailer for storage, use or other consumption in this State if the property:

(a) Was first used in interstate or foreign commerce outside this State; and

(b) Is used continuously in interstate or foreign commerce, but not exclusively in this State, for at least 12 months after the date that the property was first used pursuant to paragraph (a).

2. As used in this section:

(a) "Interstate or foreign commerce" means the transportation of passengers or property between:

(1) A point in one state and a point in:

(I) Another state;

(II) A possession or territory of the United States; or

(III) A foreign country; or

(2) Points in the same state when such transportation consists of one or more segments of transportation that immediately follow movement of the property into the state from a point beyond its borders or immediately precede movement of the property from within the state to a point outside its borders.

(b) "State" includes the District of Columbia.

374.263 Presumption that certain property delivered outside this State was not purchased for use in this State.

1. It is presumed that tangible personal property delivered outside this State to a purchaser was not purchased from a retailer for storage, use or other consumption in this State if the property:

(a) Was first used in interstate or foreign commerce outside this State; and

(b) Is used continuously in interstate or foreign commerce, but not exclusively in this State, for at least 12 months after the date that the property was first used pursuant to paragraph (a).

2. As used in this section:

(a) "Interstate or foreign commerce" means the transportation of passengers or property between:

(1) A point in one state and a point in:

(I) Another state;

(II) A possession or territory of the United States; or

(III) A foreign country; or

(2) Points in the same state when such transportation consists of one or more segments of transportation that immediately follow movement of the property into the state from a point beyond its borders or immediately precede movement of the property from within the state to a point outside its borders.

(b) "State" includes the District of Columbia.

Amendment No. 825.

"SUMMARY—Makes various changes regarding the administration of sales and use taxes. (BDR 32-432)"

"AN ACT relating to taxation; revising the provisions governing the administration of sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement ~~[,]~~ **and to** apply the taxes to retailers whose activities have a sufficient nexus with this State **;** ~~[and provide for the rebuttal of certain presumptions regarding the application of use taxes to property delivered outside of or brought into this State;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the administration of sales and use taxes in this State pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 360B, 372 and 374 of NRS) Under existing law, the Legislature has found and declared that this State should enter into an interstate agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and types of commerce. (NRS 360B.020) Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions

reasonably required to implement the provisions of the Agreement. (NRS 360B.110)

This bill carries out various requirements of the Streamlined Sales and Use Tax Agreement. **Sections 2 and 26** of this bill replace superseded requirements for purchases of direct mail with new requirements regarding the sourcing of those transactions to various jurisdictions and the respective responsibilities of sellers and purchasers for the collection, reporting and payment of the applicable taxes. **Section 3** of this bill sets forth a new requirement regarding the registration of certain sellers who anticipate making no sales into certain states. **Sections 3, 14 and 23** of this bill carry out a new requirement to allow the electronic filing of simplified tax returns. **Sections 4 and 7** of this bill carry out a recent amendment to the Agreement governing the taxation of delivery charges. **Section 4.5** of this bill carries out a recent amendment to the Agreement regarding the due dates for tax returns and payments. **Sections 13 and 22** of this bill set forth new requirements regarding the liability of a seller for accepting certain certificates of exemption which indicate that the claimed exemption is not available. **Sections 5 and 6** of this bill delete certain provisions of the Agreement that do not apply in this State. **Sections 9, 10, 18 and 19** of this bill delete a requirement for good faith which is not allowed by the Agreement.

Under existing law, the Commerce Clause of the United States Constitution prohibits a state from requiring a retailer to collect sales and use taxes unless the activities of the retailer have a substantial nexus with the taxing state. (*Quill Corp. v. North Dakota*, 504 U.S. 298, 112 S.Ct. 1904 (1992)) **Sections 8 and 17** of this bill apply the sales and use taxes imposed in this State to every retailer whose activities have such a nexus.

~~[Existing law creates various presumptions regarding the application of the use taxes imposed in this State to property which is delivered outside of this State to a purchaser or brought into this State by a purchaser. (NRS 372.250, 372.255, 372.258, 374.255, 374.260, 374.263) Sections 11, 12, 20, 21 and 26 of this bill revise that law to specify the methods for controverting a presumption that those taxes apply.]~~

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

Section 1. NRS 360.299 is hereby amended to read as follows:

360.299 1. In determining the amount of:

(a) Sales tax due on a sale at retail, the rate of tax used must be the sum of the rates of all taxes imposed upon sales at retail in:

(1) The county determined pursuant to the provisions of NRS 360B.350 to 360B.375, inclusive ~~[,]~~ ***, or section 2 of this act;*** or

(2) If those provisions do not apply to the sale, the county in which the property is or will be delivered to the purchaser or the agent or designee of the purchaser.

(b) Use tax due on the purchase of tangible personal property for use, storage or other consumption in this state, the rate of tax used must be the

sum of the rates of all taxes imposed upon the use, storage or other consumption of property in:

(1) The county determined pursuant to the provisions of NRS 360B.350 to 360B.375, inclusive ~~[.]~~ ***, or section 2 of this act;*** or

(2) If those provisions do not apply to the purchase, the county in which the property is first used, stored or consumed.

2. In determining the amount of taxes due pursuant to subsection 1:

(a) The amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.

(b) A retailer may compute the amount due on a transaction on the basis of each item involved in the transaction or a single invoice for the entire transaction.

3. On or before January 1 of each year, the Department shall transmit to each retailer to whom a permit has been issued a notice which contains the provisions of subsections 1 and 2 and NRS 372.365.

Sec. 2. Chapter 360B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:

(a) A purchaser of advertising and promotional direct mail may provide the seller with:

(1) Documentation of the direct pay permit of the purchaser issued pursuant NRS 360B.260;

(2) A certificate or written statement, in a form approved by the Department in accordance with the provisions of the Agreement, claiming the direct mail; or

(3) An informational statement of the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients.

(b) If the purchaser provides the documentation, certificate or statement pursuant to subparagraph (1) or (2) of paragraph (a), the sale shall be deemed to take place in the jurisdictions to which the advertising and promotional direct mail is to be delivered to the recipients and:

(1) If the seller does not maintain a place of business in this State:

(I) The purchaser shall report and pay any applicable sales or use taxes due; and

(II) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the advertising and promotional direct mail to which the documentation, certificate or statement applies; or

(2) If the seller maintains a place of business in this State:

(I) The seller shall collect and remit any applicable sales or use taxes due in this State;

(II) The purchaser shall report and pay any applicable sales or use taxes due in any other state; and

(III) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the advertising and promotional direct mail to which the documentation, certificate or statement applies which are due in any other state.

(c) If the purchaser provides the informational statement pursuant to subparagraph (3) of paragraph (a):

(1) The sale shall be deemed to take place in the jurisdictions to which the advertising and promotional direct mail is to be delivered;

(2) The seller shall collect and remit any applicable sales or use taxes due to those jurisdictions; and

(3) If the seller complies with subparagraph (2) in accordance with the delivery information provided by the purchaser, the seller, in the absence of bad faith, is relieved of any further obligation to collect any additional sales or use taxes on the sale.

(d) If the purchaser does not provide the seller with any of the items listed in paragraph (a), the sale shall be deemed to take place at the location described in subsection 5 of NRS 360B.360. The state to which the advertising and promotional direct mail is delivered may disallow credit for any sales or use taxes paid in accordance with this paragraph.

2. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:

(a) Except as otherwise provided in this subsection, the sale of other direct mail shall be deemed to take place at the location described in subsection 3 of NRS 360B.360.

(b) A purchaser of other direct mail may provide the seller with:

(1) Documentation of the direct pay permit of the purchaser issued pursuant NRS 360B.260; or

(2) A certificate or written statement, in a form approved by the Department in accordance with the provisions of the Agreement, claiming the direct mail.

(c) If the purchaser provides the documentation, certificate or statement pursuant to paragraph (b), the sale shall be deemed to take place in the jurisdictions to which the other direct mail is to be delivered to the recipients and:

(1) If the seller does not maintain a place of business in this State:

(I) The purchaser shall report and pay any applicable sales or use taxes due; and

(II) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the other direct mail to which the documentation, certificate or statement applies; or

(2) If the seller maintains a place of business in this State:

(I) The seller shall collect and remit any applicable sales or use taxes due in this State;

(II) The purchaser shall report and pay any applicable sales or use taxes due in any other state; and

(III) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the other direct mail to which the documentation, certificate or statement applies which are due in any other state.

3. This section does not apply to any transaction that includes the development of billing information or the provision of any data processing service that is more than incidental, regardless of whether any advertising and promotional direct mail is included in the same mailing.

4. If a transaction is a bundled transaction, as defined by a regulation of the Department in accordance with the provisions of the Agreement, that includes advertising and promotional direct mail, this section applies only if the primary purpose of the transaction is the sale of products that meet the definition set forth in paragraph (a) of subsection 6.

5. The provisions of this section do not limit any purchaser's:

(a) Liability for any sales or use taxes to any states to which the direct mail is delivered;

(b) Rights under local, state, federal or constitutional law, to a credit for sales or use taxes due and paid to other jurisdictions; or

(c) Right to a refund of any sales or use taxes overpaid to any jurisdiction.

6. As used in this section:

(a) "Advertising and promotional direct mail" means direct mail, the primary purpose of which is to attract public attention to a product, person, business or organization, or to attempt to sell, popularize or secure financial support for a product, person, business or organization. As used in this paragraph, "product" means tangible personal property, a product transferred electronically or a service.

(b) "Direct mail" means printed material delivered or distributed by the United States Postal Service or another delivery service to a mass audience or to addresses contained on a mailing list provided by a purchaser or at the direction of a purchaser when the cost of the items purchased is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the seller of the direct mail for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.

(c) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether any advertising and promotional direct mail is included in the same mailing. The term:

(1) Includes, but is not limited to:

(I) Transactional direct mail that contains personal information specific to the addressee, including, but not limited to, invoices, bills, statements of account and payroll advices;

(II) Any legally required mailings, including, but not limited to, privacy notices, tax reports and stockholder reports; and

(III) Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees or agents, including, but not limited to, newsletters and informational pieces; and

(2) Does not include the development of billing information or the provision of any data processing service that is more than incidental.

Sec. 3. NRS 360B.200 is hereby amended to read as follows:

360B.200 1. The Department shall, in cooperation with any other states that are members of the Agreement, establish and maintain a central, electronic registration system that allows a seller to register to collect and remit the sales and use taxes imposed in this State and in the other states that are members of the Agreement.

2. A seller who registers pursuant to this section agrees to collect and remit sales and use taxes in accordance with the provisions of this chapter, the regulations of the Department and the applicable law of each state that is a member of the Agreement, including any state that becomes a member of the Agreement after the registration of the seller pursuant to this section. The cancellation or revocation of the registration of a seller pursuant to this section, the withdrawal of a state from the Agreement or the revocation of the Agreement does not relieve a seller from liability pursuant to this subsection to remit any taxes previously or subsequently collected on behalf of a state.

3. When registering pursuant to this section, a seller may:

(a) Elect to use a certified service provider as its agent to perform all the functions of the seller relating to sales and use taxes, other than the obligation of the seller to remit the taxes on its own purchases;

(b) Elect to use a certified automated system to calculate the amount of sales or use taxes due on its sales transactions;

(c) Under such conditions as the Department deems appropriate in accordance with the Agreement, elect to use its own proprietary automated system to calculate the amount of sales or use taxes due on its sales transactions; or

(d) Elect to use any other method authorized by the Department for performing the functions of the seller relating to sales and use taxes.

4. ***A seller who registers pursuant to this section and does not make the election allowed pursuant to paragraph (a) of subsection 3 may elect to be registered in any state that:***

(a) Is a member of the Agreement at the time of that registration, as a seller who anticipates making no sales into that state if the seller has not had any sales into that state for the preceding 12 months; and

(b) Becomes a member of the Agreement after that registration, as a seller who anticipates making no sales into that state.

5. A seller who registers pursuant to this section agrees to submit its sales and use tax returns, and to remit any sales and use taxes due, to the

Department at such times and in such a manner and format as the Department prescribes by regulation. Those regulations must:

(a) Require from each seller who registers pursuant to this section:

(1) Only ~~[one]~~ ***a single*** tax return for each taxing period for all the sales and use taxes collected on behalf of this State and each local government in this State; and

(2) Only one remittance of taxes for each tax return, except that the Department may require additional remittances of taxes if the seller:

(I) Collects more than $30,000 in sales and use taxes on behalf of this State and the local governments in this State during the preceding calendar year;

(II) Is allowed to determine the amount of any additional remittance by a method of calculation instead of by the actual amount collected; and

(III) Is not required to file any tax returns in addition to those otherwise required in accordance with this subsection.

(b) Allow any seller who registers pursuant to this section ~~[and makes an election pursuant to paragraph (a), (b) or (c) of subsection 3]~~ to submit tax returns ***electronically*** in a simplified format . ~~[that does not include any more data fields than are permitted in accordance with the Agreement.]~~

(c) Allow any seller who registers pursuant to this section, does not maintain a place of business in this State and has not made an election pursuant to paragraph (a), (b) or (c) of subsection 3, to file tax returns at a frequency that does not exceed once per year unless the seller accumulates more than $1,000 in the collection of sales and use taxes on behalf of this State and the local governments in this State.

(d) Provide an alternative method for a seller who registers pursuant to this section to make tax payments the same day as the seller intends if an electronic transfer of money fails.

(e) Require any data that accompanies the remittance of a tax payment by or on behalf of a seller who registers pursuant to this section to be formatted using uniform codes for the type of tax and payment in accordance with the Agreement.

~~[5.]~~ ***6.*** The registration of a seller and the collection and remission of sales and use taxes pursuant to this section may not be considered as a factor in determining whether a seller has a nexus with this State for the purposes of determining the liability of the seller to pay any tax imposed by this State.

Sec. 4. NRS 360B.290 is hereby amended to read as follows:

360B.290 Any invoice, billing or other document given to a purchaser that indicates the sales price for which tangible personal property is sold ~~[must]~~ ***:***

1. ***May*** state separately any amount received by the seller for ~~[:~~

~~1. Any]~~ ***any*** transportation, shipping or postage charges for the delivery of the property to a location designated by the purchaser ~~[.]~~ ***; and***

2. ***Must state separately any amount received by the seller for:***

(a) Any installation charges for the property;

~~[3.]~~ ***(b)*** Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;

~~[4.]~~ ***(c)*** Any interest, financing and carrying charges from credit extended on the sale; and

~~[5.]~~ ***(d)*** Any taxes legally imposed directly on the consumer.

Sec. 4.5. NRS 360B.300 is hereby amended to read as follows:

360B.300 Notwithstanding the provisions of any other specific statute ~~[, if]~~ ***:***

1. If any sales or use tax is due and payable on ~~[a]~~ ***:***

(a) A Saturday, Sunday or legal holiday, the tax may be paid on the next succeeding business day ~~[.]~~ ***; or***

(b) A day on which a Federal Reserve bank is closed and, as a result of that closure, the taxpayer is not able to remit the tax electronically in accordance with the regulations adopted by the Department pursuant to NRS 360.092, the tax may be paid on the next succeeding day on which the Federal Reserve bank is open.

2. If any sales or use tax return is:

(a) Due on a Saturday, Sunday or legal holiday, the return may be filed on the next succeeding business day; or

(b) Required to be filed in conjunction with a remittance of the tax and paragraph (b) of subsection 1 applies to that remittance, the return may be filed on the same day as the tax may be paid in accordance with that paragraph.

Sec. 5. NRS 360B.350 is hereby amended to read as follows:

360B.350 As used in NRS 360B.350 to 360B.375, inclusive:

1. "Receive" means taking possession of ~~[or making the first use of]~~ tangible personal property ***.*** ~~[, whichever occurs first.]~~ The term does not include possession by a shipping company on behalf of a purchaser.

2. "Transportation equipment" means:

(a) Locomotives and railcars used for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors having a manufacturer's gross vehicle weight rating of more than 10,000 pounds, and trailers, semitrailers and passenger buses that are:

(1) Registered pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or

(2) Operated under the authority of a carrier who is authorized by the Federal Government to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft operated by an air carrier who is authorized by the Federal Government or a foreign government to engage in the carriage of persons or property in interstate or foreign commerce.

(d) Containers designed for use on and component parts attached or secured to any of the items described in paragraph (a), (b) or (c).

Sec. 5.5. NRS 360B.355 is hereby amended to read as follows:

360B.355 1. Except as otherwise provided in this section ~~[,]~~ ***and section 2 of this act,*** for the purpose of determining the liability of a seller for sales and use taxes, a retail sale shall be deemed to take place at the location determined pursuant to NRS 360B.350 to 360B.375, inclusive.

2. NRS 360B.350 to 360B.375, inclusive, do not:

(a) Affect any liability of a purchaser or lessee for a use tax.

(b) Apply to:

(1) The retail sale or transfer of watercraft, modular homes, manufactured homes or mobile homes.

(2) The retail sale, other than the lease or rental, of motor vehicles, trailers, semitrailers or aircraft that do not constitute transportation equipment.

Sec. 6. NRS 360B.360 is hereby amended to read as follows:

360B.360 Except as otherwise provided in NRS 360B.350 to 360B.375, inclusive, the retail sale, excluding the lease or rental, of tangible personal property shall be deemed to take place:

1. If the property is received by the purchaser at a place of business of the seller, at that place of business.

2. If the property is not received by the purchaser at a place of business of the seller:

(a) At the location indicated to the seller pursuant to any instructions provided for the delivery of the property to the purchaser or to another recipient who is designated by the purchaser as his or her donee; or

(b) If no such instructions are provided and if known by the seller, at the location where the purchaser or another recipient who is designated by the purchaser as his or her donee, receives the property.

3. If subsections 1 and 2 do not apply, at the address of the purchaser indicated in the business records of the seller that are maintained in the ordinary course of the seller's business, unless the use of that address would constitute bad faith.

4. If subsections 1, 2 and 3 do not apply, at the address of the purchaser obtained during the consummation of the sale, including, if no other address is available, the address of the purchaser's instrument of payment, unless the use of an address pursuant to this subsection would constitute bad faith.

5. In all other circumstances, at the address from which the property was shipped . ~~[or, if it was delivered electronically, at the address from which it was first available for transmission by the seller.]~~

Sec. 7. NRS 360B.480 is hereby amended to read as follows:

360B.480 1. "Sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:

(a) The seller's cost of the property sold;

(b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges which are not stated separately pursuant to ***subsection 1 of*** NRS 360B.290 and excluding any installation charges which are stated separately pursuant to ***subsection 2 of*** NRS 360B.290; and

(d) Except as otherwise provided in subsection 2, any credit for any trade-in.

2. The term does not include:

(a) Any delivery charges which are stated separately pursuant to ***subsection 1 of*** NRS 360B.290;

(b) Any installation charges which are stated separately pursuant to ***subsection 2 of*** NRS 360B.290;

(c) Any credit for any trade-in which is:

(1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and

(2) Stated separately pursuant to ***subsection 2 of*** NRS 360B.290;

(d) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;

(e) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to ***subsection 2 of*** NRS 360B.290; and

(f) Any taxes legally imposed directly on the consumer which are stated separately pursuant to ***subsection 2 of*** NRS 360B.290.

3. The term includes consideration received by a seller from a third party if:

(a) The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(b) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(c) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(d) Any of the following criteria is satisfied:

(1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.

(2) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount. For the

purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.

(3) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

Sec. 8. Chapter 372 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this chapter relating to:

(a) The imposition, collection and remittance of the sales tax apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.

(b) The collection and remittance of the use tax apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.

2. In administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in this State" in accordance with the provisions of subsection 1.

Sec. 9. NRS 372.155 is hereby amended to read as follows:

372.155 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax, it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes ~~[in good faith]~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

(a) The third-party vendor:

(1) Takes ~~[in good faith]~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 10. NRS 372.225 is hereby amended to read as follows:

372.225 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is

presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes ~~[in good faith]~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes ~~[in good faith]~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 11. ~~[NRS 372.250 is hereby amended to read as follows:~~

~~372.250 *1.* It is presumed that tangible personal property shipped or brought to this State by the purchaser on or after July 1, 1979, was purchased from a retailer on or after July 1, 1979, for storage, use or other consumption in this State.~~

~~*2. This presumption may be controverted by the vendor or purchaser by evidence showing that the property was stored or used:*~~

~~*(a) Exclusively outside of this State during the initial 30 days after its purchase; and*~~

~~*(b) Outside of this State for a majority of the time during the initial 12 months after its purchase.]~~ **(Deleted by amendment.)**

Sec. 12. ~~[NRS 372.255 is hereby amended to read as follows:~~

~~372.255 1. [Except as otherwise provided in NRS 372.258, on] *On* and after July 1, 1979, it is presumed that tangible personal property delivered outside this State to a purchaser known by the retailer to be a resident of this State was purchased from a retailer for storage, use or other consumption in this State and stored, used or otherwise consumed in this State.~~

~~2. This presumption may be controverted by:~~

~~(a) [A] *The vendor by a written* statement [in writing, signed by the purchaser or his or her authorized representative, and retained by the vendor,] that the property was purchased for use at a designated point or points outside this State [.~~

~~(b) Other evidence satisfactory to the Department that the property was not purchased for storage, use or other consumption in this State.]~~ ~~*, if the statement is:*~~

~~*(1) Signed by the purchaser or his or her authorized representative; and*~~

~~*(2) Taken and retained by the vendor in good faith; or*~~

~~*(b) The vendor or purchaser by evidence showing that the property was stored or used:*~~

~~*(1) Exclusively outside of this State during the initial 30 days after its purchase; and*~~

~~*(2) Outside of this State for a majority of the time during the initial 12 months after its purchase.]~~ **(Deleted by amendment.)**

Sec. 13. NRS 372.347 is hereby amended to read as follows:

372.347 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such ~~[identifying]~~ information from the purchaser ~~[at the time of sale]~~ as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer ~~[fraudulently]~~ ***:***

(a) Fraudulently fails to collect the tax ~~[or solicits]~~ ***;***

(b) Solicits a purchaser to participate in an unlawful claim of an exemption ~~[.]~~ ***; or***

(c) Accepts a certificate of exemption from a purchaser who claims an entity-based exemption, the subject of the transaction sought to be covered by the certificate is actually received by the purchaser at a location operated by the seller, and the Department provides, and posts on a website or other Internet site that is operated or administered by or on behalf of the Department, a certificate of exemption which clearly and affirmatively indicates that the claimed exemption is not available.

6. As used in this section ~~[, "retailer"]~~ ***:***

(a) "Entity-based exemption" means an exemption based on who purchases the product or who sells the product, and which is not available to all.

(b) "Retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.

Sec. 14. NRS 372.360 is hereby amended to read as follows:

372.360 Except as otherwise required by the Department pursuant to NRS 360B.200:

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form ***and manner*** as the Department may prescribe. Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 374 of NRS.

2. For purposes of:

(a) The sales tax, a return must be filed by each seller.

(b) The use tax, a return must be filed by each retailer maintaining a place of business in the State and by each person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due.

3. ~~[Returns]~~ ***Unless filed electronically, returns*** must be signed by the person required to file the return or by his or her authorized agent but need not be verified by oath.

Sec. 15. NRS 372.365 is hereby amended to read as follows:

372.365 1. Except as otherwise required by the Department pursuant to NRS 360B.200 or provided in NRS 360B.350 to 360B.375, inclusive ~~[.]~~ ***, or section 2 of this act:***

(a) For the purposes of the sales tax:

(1) The return must show the gross receipts of the seller during the preceding reporting period.

(2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

(3) A sale pertains to the county in this State in which the tangible personal property is or will be delivered to the purchaser or his or her agent or designee.

(b) For purposes of the use tax:

(1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

(2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

(3) If the property was:

(I) Brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property is or will be first used, stored or otherwise consumed.

(II) Not brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property was delivered to the purchaser or his or her agent or designee.

2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this State in which the property was first used, stored or consumed.

3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

4. Except as otherwise provided in subsection 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or $1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or $3,000, whichever is less.

5. For the purposes of subsection 4, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

Sec. 16. NRS 372.375 is hereby amended to read as follows:

372.375 1. Except as otherwise ***authorized or*** required by the Department ***,*** ~~[~~pursuant to NRS 360B.200,~~]~~ the person required to file a return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed pursuant to NRS 360.092.

Sec. 17. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this chapter relating to:

(a) The imposition, collection and remittance of the sales tax apply to every retailer whose activities have a sufficient nexus with a county to satisfy the requirements of the United States Constitution.

(b) The collection and remittance of the use tax apply to every retailer whose activities have a sufficient nexus with a county to satisfy the requirements of the United States Constitution.

2. In administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in a county" in accordance with the provisions of subsection 1.

Sec. 18. NRS 374.160 is hereby amended to read as follows:

374.160 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes ~~[in good faith]~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

(a) The third-party vendor:

(1) Takes ~~[in good faith]~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 19. NRS 374.230 is hereby amended to read as follows:

374.230 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in a county is sold for storage, use or other consumption in the county until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes ~~[in good faith]~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes ~~[in good faith]~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 20. ~~[NRS 374.255 is hereby amended to read as follows:~~

~~374.255 *1.* It [shall be further]~~ *is* ~~presumed that tangible personal property shipped or brought to a county by the purchaser after July 1, 1967, was purchased from a retailer on or after July 1, 1967, for storage, use or other consumption in the county.~~

~~*2. This presumption may be controverted by the vendor or purchaser by evidence showing that the property was stored or used:*~~

~~*(a) Exclusively outside of a county during the initial 30 days after its purchase; and*~~

~~*(b) Outside of a county for a majority of the time during the initial 12 months after its purchase.]~~ **(Deleted by amendment.)**

Sec. 21. ~~[NRS 374.260 is hereby amended to read as follows:~~

~~374.260 1. [Except as otherwise provided in NRS 374.263, on]~~ *On* ~~and after July 1, 1967, it is [further] presumed that tangible personal property delivered outside this State to a purchaser known by the retailer to be a resident of the county was purchased from a retailer for storage, use or other consumption in the county and stored, used or otherwise consumed in the county.~~

~~2. This presumption may be controverted by:~~

~~(a) [A]~~ *The vendor by a written* ~~statement [in writing, signed by the purchaser or his or her authorized representative, and retained by the vendor,] that the property was purchased for use at a designated point or points outside this State [.~~

~~(b) Other evidence satisfactory to the Department that the property was not purchased for storage, use or other consumption in this State.]~~ *, if the statement is:*

(1) Signed by the purchaser or his or her authorized representative; and

(2) Taken and retained by the vendor in good faith; or

~~*(b) The vendor or purchaser by evidence showing that the property was stored or used:*~~

~~*(1) Exclusively outside of this State during the initial 30 days after its purchase; and*~~

~~*(2) Outside of this State for a majority of the time during the initial 12 months after its purchase.]~~ **(Deleted by amendment.)**

Sec. 22. NRS 374.352 is hereby amended to read as follows:

374.352 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such ~~[identifying]~~ information from the purchaser ~~[at the time of sale]~~ as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer ~~[fraudulently]~~ ***:***

(a) Fraudulently fails to collect the tax ~~[or solicits]~~ ***;***

(b) Solicits a purchaser to participate in an unlawful claim of an exemption ~~[.]~~ ***; or***

(c) Accepts a certificate of exemption from a purchaser who claims an entity-based exemption, the subject of the transaction sought to be covered by the certificate is actually received by the purchaser at a location operated by the seller, and the Department provides, and posts on a website or other Internet site that is operated or administered by or on behalf of the Department, a certificate of exemption which clearly and affirmatively indicates that the claimed exemption is not available.

6. As used in this section ~~[, "retailer"]~~ ***:***

(a) "Entity-based exemption" means an exemption based on who purchases the product or who sells the product, and which is not available to all.

(b) "Retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.

Sec. 23. NRS 374.365 is hereby amended to read as follows:

374.365 Except as otherwise required by the Department pursuant to NRS 360B.200:

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form ***and manner*** as the Department may prescribe. Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 372 of NRS.

2. For purposes of:

(a) The sales tax, a return must be filed by every seller.

(b) The use tax, a return must be filed by every retailer maintaining a place of business in the county and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due.

3. ~~[Returns]~~ ***Unless filed electronically, returns*** must be signed by the person required to file the return or by his or her authorized agent but need not be verified by oath.

Sec. 24. NRS 374.370 is hereby amended to read as follows:

374.370 1. Except as otherwise required by the Department pursuant to NRS 360B.200 or provided in NRS 360B.350 to 360B.375, inclusive ~~[.]~~ ***, or section 2 of this act:***

(a) For the purposes of the sales tax:

(1) The return must show the gross receipts of the seller during the preceding reporting period.

(2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

(3) A sale pertains to the county in this State in which the tangible personal property is or will be delivered to the purchaser or his or her agent or designee.

(b) For purposes of the use tax:

(1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

(2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

(3) If the property was:

(I) Brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property is or will be first used, stored or otherwise consumed.

(II) Not brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property was delivered to the purchaser or his or her agent or designee.

2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him or her, the storage, use or

consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this State in which the property was first used, stored or consumed.

3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

4. Except as otherwise provided in subsection 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or $1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or $3,000, whichever is less.

5. For the purposes of subsection 4, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

Sec. 25. NRS 374.380 is hereby amended to read as follows:

374.380 1. Except as otherwise ***authorized or*** required by the Department **,** ~~[~~pursuant to NRS 360B.200,~~]~~ the person required to file a return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed pursuant to NRS 360.092.

Sec. 26. NRS 360B.280 ~~[, 372.258 and 374.263 are]~~ **is** hereby repealed.

Sec. 27. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

360B.280 Purchases of direct mail.

1. A purchaser of direct mail must provide to the seller at the time of the purchase:

(a) If the seller does not maintain a place of business in this State:

(1) A form for direct mail approved by the Department;

(2) An informational statement of the jurisdictions to which the direct mail will be delivered to recipients; or

(3) Documentation of the direct pay permit of the purchaser issued pursuant to NRS 360B.260; or

(b) If the seller maintains a place of business in this State, an informational statement of the jurisdictions to which the direct mail will be delivered to recipients.

➥ If a purchaser of direct mail provides documentation of a direct pay permit to a seller in accordance with subparagraph (3) of paragraph (a), the seller shall not require the purchaser to comply with any other provision of that paragraph.

2. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:

(a) Upon the receipt pursuant to subsection 1 of:

(1) A form for direct mail by a seller who does not maintain a place of business in this State:

(I) The seller is relieved of any liability for the collection, payment or remission of any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller; and

(II) The purchaser is liable for any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller.

➥ Any form for direct mail provided to a seller pursuant to this subparagraph applies to all future sales of direct mail made by that seller to that purchaser until the purchaser delivers a written notice of revocation to the seller.

(2) An informational statement by any seller, the seller shall collect, pay or remit any applicable sales and use taxes in accordance with the information contained in that statement. In the absence of bad faith, the seller is relieved of any liability to collect, pay or remit any sales and use taxes other than in accordance with that information received.

(b) If a purchaser of direct mail does not comply with subsection 1, the seller shall determine the location of the sale pursuant to subsection 5 of NRS 360B.360 and collect, pay or remit any applicable sales and use taxes. This paragraph does not limit the liability of the purchaser for the payment of any of those taxes.

3. As used in this section, "direct mail" means printed material delivered or distributed by the United States Postal Service or another delivery service to a mass audience or to addresses contained on a mailing list provided by a purchaser or at the direction of a purchaser when the cost of the items purchased is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the seller of the direct mail for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.

~~[372.258 Presumption that certain property delivered outside this State was not purchased for use in this State.~~

~~1. It is presumed that tangible personal property delivered outside this State to a purchaser was not purchased from a retailer for storage, use or other consumption in this State if the property:~~

~~(a) Was first used in interstate or foreign commerce outside this State; and~~

~~(b) Is used continuously in interstate or foreign commerce, but not exclusively in this State, for at least 12 months after the date that the property was first used pursuant to paragraph (a).~~

~~2. As used in this section:~~

~~(a) "Interstate or foreign commerce" means the transportation of passengers or property between:~~

~~(1) A point in one state and a point in:~~

~~(I) Another state;~~

~~(II) A possession or territory of the United States; or~~

~~(III) A foreign country; or~~

~~(2) Points in the same state when such transportation consists of one or more segments of transportation that immediately follow movement of the property into the state from a point beyond its borders or immediately precede movement of the property from within the state to a point outside its borders.~~

~~(b) "State" includes the District of Columbia.~~

~~374.263 Presumption that certain property delivered outside this State was not purchased for use in this State.~~

~~1. It is presumed that tangible personal property delivered outside this State to a purchaser was not purchased from a retailer for storage, use or other consumption in this State if the property:~~

~~(a) Was first used in interstate or foreign commerce outside this State; and~~

~~(b) Is used continuously in interstate or foreign commerce, but not exclusively in this State, for at least 12 months after the date that the property was first used pursuant to paragraph (a).~~

~~2. As used in this section:~~

~~(a) "Interstate or foreign commerce" means the transportation of passengers or property between:~~

~~(1) A point in one state and a point in:~~

~~(I) Another state;~~

~~(II) A possession or territory of the United States; or~~

~~(III) A foreign country; or~~

~~(2) Points in the same state when such transportation consists of one or more segments of transportation that immediately follow movement of the property into the state from a point beyond its borders or immediately precede movement of the property from within the state to a point outside its borders.~~

~~(b) "State" includes the District of Columbia.]~~

Senator Leslie moved that the Senate concur in the Assembly amendments to Senate Bill No. 34.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 432.

The following Assembly amendment was read:

Amendment No. 812.

"SUMMARY—Revises provisions governing governmental financing. (BDR 32-538)"

"AN ACT relating to governmental financing; authorizing regional transportation commissions in certain counties to issue revenue bonds and other securities to finance certain projects under certain circumstances; ~~[deleting]~~ **providing an exception to** certain limitations on the issuance of such bonds and other securities by certain counties under certain circumstances; extending the period within which the repayment of certain bonds or other securities must commence; extending the period within which certain general obligation bonds issued for a water facility or wastewater facility must mature; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes counties to impose a county tax on the sale of motor vehicle fuel. (NRS 373.030, 373.065, 373.066) Existing law also authorizes counties to issue revenue bonds and other revenue securities to obtain money for the payment of the cost of a street and highway construction project, subject to the limitation that the total of all such revenue bonds and other revenue securities issued and outstanding by a county must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the county tax on sales of motor vehicle fuel in the county. (NRS 373.028, 373.131) **Sections 1-4** of this bill authorize a regional transportation commission in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to issue revenue bonds and other revenue securities to finance such a project if the commission has executed an interlocal agreement with the county relating to the issuance of such bonds and other securities by the commission.

Existing law authorizes counties to impose a special tax for a public transit system, for the construction, maintenance and repair of public roads or for the improvement of air quality. (NRS 377A.020) Existing law also authorizes counties to issue bonds and other securities to obtain money to pay for the cost of establishing and maintaining a public transit system, for the construction, maintenance and repair of public roads or for the improvement of air quality. (NRS 377A.090) **Sections 5-7** of this bill authorize a regional transportation commission in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to issue revenue bonds and other revenue securities to finance such a project if the commission has executed an interlocal agreement with the county relating to the issuance of such bonds and other securities by the commission.

Existing law authorizes counties to impose a tax for infrastructure upon the gross receipts of retail sales. (NRS 377B.100, 377B.110) Existing law also authorizes counties to issue bonds and other securities to obtain money to pay for the cost of one or more projects for which the tax was imposed. (NRS 377B.190) **Section 8** of this bill ~~[deletes a requirement that an ordinance imposing]~~ **provides for the continuation of** such a tax in a county

whose population is 400,000 or more (currently Clark County) ~~[provide for]~~ **after** the **date of** cessation of the tax ~~[not later than June 30, 2025, or when the total sum collected from the tax exceeds $2.3 billion, whichever occurs earlier.]~~ **specified in the ordinance creating the tax if the board of county commissioners determines by a two-thirds majority vote that the cessation of the tax is not advisable.** **Section 9** of this bill ~~[deletes a prohibition on]~~ **similarly provides for** the **continued** issuance of such bonds or securities in such a county after ~~[June 30, 2025, or when the total sum collected from the tax exceeds $2.3 billion, whichever occurs earlier.]~~ **the date of cessation of the tax specified in the ordinance creating the tax if the board of county commissioners pursuant to section 8 has determined by a two-thirds majority vote that the cessation of the tax is not advisable.**

Section 10 of this bill extends the period within which the repayment of bonds or other securities that are issued by a political subdivision of this State and that pay compound interest must commence from not later than the fifth year after issuance to not later than the fifteenth year after issuance. **Section 11** of this bill extends the period within which general obligation bonds issued for a water facility or wastewater facility must mature to not later than 40 years from their respective dates.

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

Section 1. NRS 373.024 is hereby amended to read as follows:

373.024 "Cost of the project," or any phrase of similar import, means all or any part designated by the board ***or, in the case of a project financed with bonds or other securities issued by a commission, the commission,*** of the cost of any project, or interest therein, being acquired, which cost, at the option of the board ***or, in the case of a project financed with bonds or other securities issued by a commission, the commission,*** may include all or any part of the incidental costs pertaining to the project, including, without limitation, preliminary expenses advanced by the county ***or, in the case of a project financed with bonds or other securities issued by a commission, the commission,*** from money available for use therefor or any other source, or advanced by any city with the approval of the county from money available therefor or from any other source, or advanced by the State of Nevada or the Federal Government, or any corporation, agency or instrumentality thereof, with the approval of the county, or any combination thereof, in the making of surveys, preliminary plans, estimates of costs, other preliminaries, the costs of appraising, printing, estimates, advice, contracting for the services of engineers, architects, financial consultants, attorneys at law, clerical help, other agents or employees, the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of bonds and other securities, contingencies, the capitalization with bond proceeds of any interest on the bonds for any period not exceeding 1 year and of any reserves for the payment of the principal of

an interest on the bonds, the filing or recordation of instruments, the costs of medium-term obligations, construction loans and other temporary loans of not exceeding 10 years appertaining to the project and of the incidental expenses incurred in connection with such financing or loans, and all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board ~~[.]~~ ***or, in the case of a project financed with bonds or other securities issued by a commission, the commission.***

Sec. 2. NRS 373.131 is hereby amended to read as follows:

373.131 1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to NRS 277A.210 may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions this chapter and chapter 277A of NRS, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.

2. The board ***or, in a county whose population is 100,000 or more, a commission,*** may, after the enactment of any ordinance authorized by the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, issue revenue bonds and other revenue securities, on the behalf and in the name of the county ~~[.]~~ ***or the commission, as the case may be:***

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066;

(b) Which must not be general obligations of the county ***or the commission*** or a charge on any real estate ~~[therein;]~~ ***within the county;*** and

(c) Which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the fuel taxes designated in this chapter, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county ***or a commission as provided in subsection 2*** is authorized to issue bonds ***or other securities*** without the necessity of their being authorized at any election in such manner and with such terms as provided in this chapter.

4. Subject to the provisions of this chapter and chapter 277A of NRS, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, ***or, in a county whose population is 100,000 or more, a commission may, on behalf and in the name of the***

commission, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county ***or commission*** securities, and in connection with the undertaking or project, the board ***or the commission, as the case may be,*** may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the fuel taxes designated in this chapter except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. Except for:

(a) Any notes or warrants which are funded with the proceeds of interim debentures or bonds;

(b) Any interim debentures which are funded with the proceeds of bonds;

(c) Any temporary bonds which are exchanged for definitive bonds;

(d) Any bonds which are reissued or which are refunded; and

(e) The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of this chapter,

➥ all bonds and other securities issued pursuant to the provisions of this chapter must be payable solely from the proceeds of fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by this chapter. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 373.065 and paragraphs (a) and (b) of subsection 1 of NRS 373.066 may be used by the county for the payment of securities issued pursuant to the provisions of this chapter and may be pledged therefor. ***Such taxes may also be used by a commission in a county whose population is 100,000 or more for the payment of bonds or other securities issued pursuant to the provisions of this chapter and may be pledged therefor if the board of the county consents to such use.*** If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any streets, roads or other highways nor for any purchase of equipment therefor, and the receipts of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due, as provided in the securities, the ordinance ***, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission,*** authorizing their issuance and any other instrument appertaining to the securities.

7. The ordinance ***, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission,*** authorizing the issuance of any bond or other revenue security under this section must

describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board ***or commission, as the case may be,*** of details as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified ~~[.]~~ ***, if such bond or other security is issued by the county and not the commission.***

8. Notwithstanding any other provision of this chapter, no commission has authority to issue bonds or other securities pursuant to this chapter unless the commission has executed an interlocal agreement with the county relating to the issuance of bonds or other securities by the commission. Any such interlocal agreement must include an acknowledgment of the authority of the commission to issue bonds and other securities and contain provisions relating to the pledge of revenues for the repayment of the bonds or other securities, the lien priority of the pledge of revenues securing the bonds or other securities, and related matters.

Sec. 3. NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances ***, or the resolution or resolutions,*** providing for the issuance of any bonds or other securities issued under this chapter payable from the receipts from the fuel excise taxes designated in this chapter may at the discretion of the board ~~[,]~~ ***or, in the case of bonds or other securities issued by a commission, the commission,*** in addition to covenants and other provisions authorized in the Local Government Securities Law, contain covenants or other provisions as to the pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their application to defray the cost of the project, or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued under this chapter.

2. If the board ***or, in the case of bonds or other securities issued by a commission, the commission,*** determines in any ordinance ***or resolution*** authorizing the issuance of any bonds or other securities under this chapter that the proceeds of the taxes levied and collected pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof, the board ***or, in the case of bonds or other securities issued by a commission, the commission with the consent of the board as provided in subsection 6 of NRS 373.131,*** may additionally secure the

payment of any bonds or other securities issued pursuant to the ordinance ***or resolution*** under this chapter by a pledge of and the creation of a lien upon not only the proceeds of any fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of NRS 373.131, but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any fuel so long as any bonds or other securities issued under this chapter remain outstanding and are not limited to any type or types of fuel in use when the bonds or other securities are issued.

Sec. 4. NRS 373.190 is hereby amended to read as follows:

373.190 The board ***, or a commission authorized to issue bonds or other securities pursuant to subsection 2 of NRS 373.131,*** is authorized to sell such bonds ***or other securities*** from time to time at public or private sale as the board ***or the commission, as the case may be,*** may determine.

Sec. 5. NRS 377A.090 is hereby amended to read as follows:

377A.090 1. Money for the payment of the cost of establishing and maintaining a public transit system, for the construction, maintenance and repair of public roads, for the improvement of air quality or for any combination of those purposes may be obtained by the issuance of bonds and other securities as provided in subsection 2 ***or 3*** or, subject to any pledges, liens and other contractual limitations made pursuant to this chapter, may be obtained by direct distribution from the public transit fund, or may be obtained both by the issuance of such securities and by such direct distribution as the board ***or, in the case of securities issued by a regional transportation commission, the regional transportation commission,*** may determine.

2. The board may, after the enactment of an ordinance authorized by paragraph (a) of subsection 1 of NRS 377A.020, from time to time issue bonds and other securities, which are general or special obligations of the county and which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the tax imposed by that ordinance.

3. ***A regional transportation commission authorized to issue bonds or other securities pursuant to subsection 2 of NRS 373.131 may, after the enactment by a board of county commissioners of an ordinance authorized by paragraph (a) of subsection 1 of NRS 377A.020, from time to time issue bonds and other securities, which are special obligations of the regional transportation commission and which may be secured as to principal and***

interest by a pledge authorized by this chapter or the receipts from the tax imposed by that ordinance.

4. Notwithstanding any other provision of this chapter, no regional transportation commission may issue bonds or other securities pursuant to this chapter unless the regional transportation commission has executed an interlocal agreement with the county relating to the issuance of bonds or other securities by the regional transportation commission. Any such interlocal agreement must include an acknowledgment of the authority of the regional transportation commission to issue bonds or other securities and contain provisions relating to the pledge of revenues for the repayment of the bonds or other securities, the lien priority of the pledge of revenues securing the bonds or other securities, and related matters.

5. The ordinance ***or resolution*** authorizing the issuance of any bond or other security must describe the purpose for which it is issued.

Sec. 6. NRS 377A.100 is hereby amended to read as follows:

377A.100 1. Each ordinance ***or resolution*** providing for the issuance of any bond or security issued under this chapter payable from the receipts of the tax imposed pursuant to paragraph (b) of subsection 1 of NRS 377A.030 may, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain a covenant or other provision to pledge and create a lien upon the receipts of the tax or upon the proceeds of any bond or security pending their application to defray the cost of establishing or operating a public transit system, constructing, maintaining or repairing public roads or improving air quality, or both tax proceeds and security proceeds, to secure the payment of any bond or security issued under this chapter.

2. Each ordinance providing for the issuance of any bond or security issued under this chapter payable from the receipts of the tax imposed pursuant to paragraph (d) of subsection 1 of NRS 377A.030 may, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain a covenant or other provision to pledge and create a lien upon:

(a) The receipts of the tax;

(b) The proceeds of any bond or security pending their application to defray the cost of acquiring, developing, constructing, equipping, operating, maintaining, improving and managing libraries, parks, recreational programs and facilities, and facilities and services for senior citizens, and for preserving and protecting agriculture, or for any combination of those purposes; or

(c) Both tax proceeds and security proceeds,

➥ to secure the payment of any bond or security issued under this chapter. The provisions of this subsection do not authorize the board of county commissioners of a county to obtain money to acquire, develop, construct, equip, operate, maintain, improve and manage recreational programs by the issuance of bonds.

3. Any money pledged to the payment of bonds or other securities pursuant to subsection 1 or 2 may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

Sec. 7. NRS 377A.110 is hereby amended to read as follows:

377A.110 1. Subject to the provisions of subsection 2, the board may gradually reduce the amount of any tax imposed pursuant to this chapter for a public transit system, for the construction, maintenance and repair of public roads, for the improvement of air quality or for any combination of those purposes as revenue from the operation of those projects permits. The date on which any reduction in the tax becomes effective must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance reducing the amount of tax imposed.

2. No such taxing ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds issued under this chapter, or other obligations incurred under this chapter, until all obligations, for which revenues from the ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter, have been discharged in full, but the board may at any time dissolve the regional transportation commission ***as provided in NRS 373.120*** and provide that no further obligations be incurred thereafter.

Sec. 8. NRS 377B.100 is hereby amended to read as follows:

377B.100 1. The board of county commissioners of any county may by ordinance, but not as in a case of emergency, impose a tax for infrastructure pursuant to this section and NRS 377B.110.

2. An ordinance enacted pursuant to this chapter may not become effective before a question concerning the imposition of the tax is approved by a two-thirds majority of the members of the board of county commissioners. Any proposal to increase the rate of the tax or change the previously approved uses for the proceeds of the tax must be approved by a two-thirds majority of the members of the board of county commissioners. The board of county commissioners shall not change a previously approved use for the proceeds of the tax to a use that is not authorized for that county pursuant to NRS 377B.160.

3. An ordinance enacted pursuant to this section must :

(a) Specify ~~[specify]~~ the date on which the tax must first be imposed or on which an increase in the rate of the tax becomes effective, which must occur on the first day of the first month of the next calendar quarter that is at least 120 days after the date on which a two-thirds majority of the board of county commissioners approved the question.

(b) In a county whose population is 400,000 or more, provide for the cessation of the tax not later than:

(1) The last day of the month in which the Department determines that the total sum collected since the tax was first imposed, exclusive of any penalties and interest, exceeds $2.3 billion; or

(2) June 30, 2025,

➥ whichever occurs earlier.

4. ***Notwithstanding the provisions of an ordinance described in subsection 3, in a county whose population is 400,000 or more, the tax may continue to be imposed after the date set forth in the ordinance for the cessation of the tax if the board of county commissioners determines by an affirmative vote of at least two-thirds of its members that the cessation of the tax is not advisable.***

5. The board of county commissioners in a county whose population is 400,000 or more and in which a water authority exists shall review the necessity for the continued imposition of the tax authorized pursuant to this chapter at least once every 10 years.

~~[5.]~~ ***6.*** Before enacting an ordinance pursuant to this chapter, the board of county commissioners shall hold a public hearing regarding the imposition of a tax for infrastructure. In a county whose population is 400,000 or more and in which a water authority exists, the water authority shall also hold a public hearing regarding the tax for infrastructure. Notice of the time and place of each hearing must be:

(a) Published in a newspaper of general circulation in the county at least once a week for the 2 consecutive weeks immediately preceding the date of the hearing. Such notice must be a display advertisement of not less than 3 inches by 5 inches.

(b) Posted at the building in which the meeting is to be held and at not less than three other separate, prominent places within the county at least 2 weeks before the date of the hearing.

~~[6.]~~ ***7.*** Before enacting an ordinance pursuant to this chapter, the board of county commissioners of a county whose population is less than 400,000 or a county whose population is 400,000 or more and in which no water authority exists, shall develop a plan for the expenditure of the proceeds of a tax imposed pursuant to this chapter for the purposes set forth in NRS 377B.160. The plan may include a regional project for which two or more such counties have entered into an interlocal agreement to expend jointly all or a portion of the proceeds of a tax imposed in each county pursuant to this chapter. Such a plan must include, without limitation, the date on which the plan expires, a description of each proposed project, the method of financing each project and the costs related to each project. Before adopting a plan pursuant to this subsection, the board of county commissioners of a county in which a regional planning commission has been established pursuant to NRS 278.0262 shall transmit to the regional planning commission a list of the proposed projects for which a tax for infrastructure may be imposed. The regional planning commission shall hold a public hearing at which it shall rank each project in relative priority. The regional planning commission shall transmit its rankings to the board of county commissioners. The recommendations of the regional planning commission regarding the priority of the proposed projects are not binding on the board of county commissioners. The board of county commissioners shall

hold at least one public hearing on the plan. Notice of the time and place of the hearing must be provided in the manner set forth in subsection ~~[5.]~~ ***6.*** The plan must be approved by the board of county commissioners at a public hearing. Subject to the provisions of subsection ~~[7,]~~ ***8,*** on or before the date on which a plan expires, the board of county commissioners shall determine whether a necessity exists for the continued imposition of the tax. If the board determines that such a necessity does not exist, the board shall repeal the ordinance that enacted the tax. If the board of county commissioners determines that the tax must be continued for a purpose set forth in NRS 377B.160, the board shall adopt, in the manner prescribed in this subsection, a new plan for the expenditure of the proceeds of the tax for such a purpose.

~~[7.]~~ ***8.*** No ordinance imposing a tax which is enacted pursuant to this chapter may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds or other obligations which are payable from or secured by a pledge of a tax enacted pursuant to this chapter until those bonds or other obligations have been discharged in full.

Sec. 8.3. **NRS 377B.150 is hereby amended to read as follows:**

377B.150 1. In a county whose population is less than 400,000 or a county whose population is 400,000 or more and in which no water authority exists, the county treasurer shall deposit the money received from the State Controller pursuant to NRS 377B.130 in the county treasury for credit to a fund to be known as the infrastructure fund. The infrastructure fund must be accounted for as a separate fund and not as a part of any other fund. The money for each project included in the plan adopted pursuant to subsection ~~[6]~~ *7* of NRS 377B.100 must be accounted for separately in the fund.

2. In a county whose population is 400,000 or more and in which a water authority exists, the water authority shall deposit the money received from the State Controller pursuant to NRS 377B.130 in a separate account of the water authority to be known as the infrastructure fund. This fund must be accounted for as a separate fund and not as part of any other fund of the water authority.

Sec. 8.7. **NRS 377B.160 is hereby amended to read as follows:**

377B.160 The money in the infrastructure fund, including interest and any other income from the fund:

1. In a county whose population is 400,000 or more, must only be expended by the water authority, distributed by the water authority to its members, distributed by the water authority pursuant to NRS 377B.170 to a city or town located in the county whose territory is not within the boundaries of the area served by the water authority or to a public entity in the county which provides water or wastewater services and which is not a member of the water authority or, if no water authority exists in the county, expended by the board of county commissioners for:

(a) The acquisition, establishment, construction, improvement or equipping of water and wastewater facilities;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a); or

(c) Any combination of those purposes.

➥ The board of county commissioners may only expend money from the infrastructure fund pursuant to this subsection in the manner set forth in the plan adopted pursuant to subsection ~~[6]~~ *7* of NRS 377B.100.

2. In a county whose population is 100,000 or more but less than 400,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection ~~[6]~~ *7* of NRS 377B.100 for:

(a) The acquisition, establishment, construction or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities relating to public safety;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a);

(c) The ongoing expenses of operation and maintenance of projects described in subparagraph (1) of paragraph (a), if such projects were included in a plan adopted by the board of county commissioners pursuant to subsection ~~[6]~~ *7* of NRS 377B.100 before January 1, 2003;

(d) Any program to provide financial assistance to owners of public and private property in areas likely to be flooded in order to make such property resistant to flood damage that is established pursuant to NRS 244.3653; or

(e) Any combination of those purposes.

3. In a county whose population is less than 100,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection ~~[6]~~ *7* of NRS 377B.100 for:

(a) The acquisition, establishment, construction, improvement or equipping of:

(1) Water facilities; or

(2) Wastewater facilities;

(b) The acquisition, establishment, construction, operation, maintenance or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities for the disposal of solid waste;

(c) The construction or renovation of facilities for schools;

(d) The construction or renovation of facilities having cultural or historical value;

(e) Projects described in subsection 2 of NRS 373.028;

(f) The acquisition, establishment, construction, expansion, improvement or equipping of facilities relating to public safety or to cultural and recreational or judicial functions;

(g) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects, facilities and activities described in paragraphs (a) to (f), inclusive; or

(h) Any combination of those purposes.

Sec. 9. NRS 377B.190 is hereby amended to read as follows:

377B.190 1. Money for the payment of the cost of one or more projects for which the board of county commissioners has imposed all or a portion of the tax authorized pursuant to this chapter may be obtained by the issuance of bonds and other securities as provided in this section, or, subject to any pledges, liens and other contractual limitations made pursuant to this chapter, may be obtained by direct distribution from the infrastructure fund, or may be obtained both by the issuance of such securities and by such direct distribution as determined by the board of county commissioners or, in a county whose population is 400,000 or more and in which a water authority exists, by the water authority.

2. The board of county commissioners of a county whose population is less than 400,000 or of a county whose population is 400,000 or more and in which no water authority exists may, after the enactment of an ordinance imposing a tax for infrastructure as authorized by NRS 377B.100, from time to time issue bonds and other securities, which are general or special obligations of the county and which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the taxes imposed by this chapter. The ordinance authorizing the issuance of any bond or other security must describe the purpose for which it was issued.

3. After the enactment of an ordinance imposing a tax for infrastructure by the board of county commissioners of a county whose population is 400,000 or more and in which a water authority exists, the water authority or, if so provided in an interlocal agreement to which the water authority is a party, one or more of the members of the water authority, may from time to time issue bonds and other securities, which are general or special obligations and which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the taxes imposed by this chapter.

4. In a county whose population is 400,000 or more, no bonds or other securities may be issued pursuant to this section which are payable from or secured by, in whole or in part, any revenue from a tax enacted pursuant to this chapter to be collected after:

(a) The last day of the month in which the Department determines that the total sum collected since the tax was first imposed, exclusive of any penalties and interest, exceeds $2.3 billion; or

(b) June 30, 2025,

➥ whichever occurs earlier ~~[.]~~ ***, unless the board of county commissioners pursuant to subsection 4 of NRS 377B.100 has determined by an***

affirmative vote of at least two-thirds of its members that the cessation of the tax is not advisable.

Sec. 10. NRS 99.065 is hereby amended to read as follows:

99.065 1. Bonds or other securities issued by this state or any of its political subdivisions may provide for the payment of compound interest. The amount of the compound interest must be treated as interest and not as an addition to the principal of the bond or other security.

2. If interest is compounded on some or all of an issue of securities, repayment of the securities:

(a) Must commence no later than the ~~[fifth]~~ ***15th*** year after issue; and

(b) If in installments, must be made no less often than annually.

Sec. 11. NRS 350.630 is hereby amended to read as follows:

350.630 1. As the governing body may determine, any bonds and other municipal securities issued hereunder, except as otherwise provided in the Local Government Securities Law, or in any act supplemental thereto, must:

(a) Be of a convenient denomination or denominations;

(b) Be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code—Investment Securities;

(c) Mature at such time or serially at such times in regular numerical order at annual or other designated intervals in amounts designated and fixed by the governing body, except as herein otherwise provided;

(d) Bear interest at a rate or rates which do not exceed the limit provided in NRS 350.2011, payable annually, semiannually or at other designated intervals, but the first interest payment date may be for interest accruing for any other period;

(e) Be made payable in lawful money of the United States, at the office of the treasurer or any commercial bank or commercial banks within or without or both within and without the State as may be provided by the governing body; and

(f) Be printed at such a place, within or without this State, as the governing body may determine.

2. ~~[General]~~ ***Except as otherwise provided in subsection 3, general*** obligation bonds must mature within 30 years from their respective dates and, if they mature serially, commencing not later than the fifth year thereafter, in such manner as the governing body may determine.

3. ***General obligation bonds issued for a water facility or wastewater facility must mature within 40 years from their respective dates and, if they mature serially, commencing not later than the 15th year thereafter, in such manner as the governing body may determine.***

4. Special obligation bonds must mature within 50 years from their respective dates.

5. As used in this section:

(a) "Wastewater facility" has the meaning ascribed to it in NRS 377B.030.

(b) "Water facility" has the meaning ascribed to it in NRS 377B.050.

Sec. 12. NRS 350.678 is hereby amended to read as follows:

350.678 1. Except as otherwise provided in NRS 350.674, the proceeds of taxes, pledged revenues and other money, including without limitation proceeds of bonds to be issued or reissued after the issuance of interim debentures, and bonds issued to secure the payment of interim debentures, or any combination thereof, may be pledged to secure the payment of interim debentures; but the proceeds of taxes and the proceeds of bonds payable from taxes, or any combination thereof, must not be used to pay any special obligation interim debentures nor may their payment be secured by a pledge of any such general obligation bonds.

2. Any bonds pledged as collateral security for the payment of any interim debentures must mature at such time or times as the governing body may determine, except as otherwise provided in subsections 2 ***,*** ~~[and]~~ 3 ***and 4*** of NRS 350.630.

3. Any bonds pledged as collateral security must not be issued in an aggregate principal amount exceeding the aggregate principal amount of the interim debenture or interim debentures secured by a pledge of such bonds, nor may they bear interest at any time which, with any interest accruing at the same time on the interim debenture or interim debentures so secured, exceeds the rate permitted on the debenture or debentures secured, computed from the appropriate index which was most recently published before the bids are received or a negotiated offer is accepted.

Sec. 13. NRS 350.682 is hereby amended to read as follows:

350.682 1. For the purpose of funding any interim debentures, any bonds pledged as collateral security to secure the payment of such interim debentures, upon their surrender as pledged property, may be reissued without an election, and any bonds not previously issued but authorized to be issued, at an election in the case of bonds required by law so to be authorized, and otherwise merely by the governing body, for a purpose or purposes the same as or encompassing the purpose or purposes for which the interim debentures were issued, may be issued for such a funding.

2. Any such bonds shall mature at such time or times as the governing body may determine, except as otherwise provided in subsections 2 ***,*** ~~[and]~~ 3 ***and 4*** of NRS 350.630.

3. Bonds for funding, including but not necessarily limited to any such reissued bonds, and bonds for any other purpose or purposes may be issued separately or issued in combination in one series or more.

4. Except as herein otherwise provided in this section and in NRS 350.676, 350.678 and 350.680, any such funding bonds shall be issued as is provided herein for other bonds.

Sec. 14. NRS 350.694 is hereby amended to read as follows:

350.694 1. No bonds may be refunded under this chapter unless the holders thereof voluntarily surrender them for exchange or payment, or unless they either mature or are callable for prior redemption under their

terms within 25 years from the date of issuance of the refunding bonds. Provision must be made for paying the securities within that period.

2. The maturity of any bond refunded may not be extended beyond 25 years, or beyond 1 year next following the date of the last outstanding maturity, whichever limitation is later, nor may any interest on any bond refunded be increased to any rate which exceeds the limit provided in NRS 350.2011.

3. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds, but in the case of any bonds constituting a debt the principal of the bonds may not be increased to any amount in excess of any municipal debt limitation.

4. The principal amount of the refunding bonds may also be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for their payment.

5. If at the time of the issuance of any issue of general obligation refunding bonds provision is not made for the redemption of all the outstanding bonds of the ~~[or]~~ ***issue refunded or the outstanding bonds of*** each issue refunded, as the case may be, by the use of proceeds of the refunding bonds and any other money available for the redemption, the general obligation refunding bonds may mature but are not required to mature serially ~~[commencing not later than the fifth year after their respective dates]~~ in accordance with ~~[subsection]~~ ***subsections*** 2 ***and 3*** of NRS 350.630.

Sec. 15. This act becomes effective on July 1, 2011.

Senator Leslie moved that the Senate concur in the Assembly amendment to Senate Bill No. 432.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 19.

The following Assembly amendment was read:

Amendment No. 652.

"SUMMARY—Requires an applicant for a contractor's license or a licensed contractor to notify the State Contractors' Board if the applicant or licensee is convicted of, or pleads guilty, guilty but mentally ill or nolo contendere to, certain crimes. (BDR 54-499)"

"AN ACT relating to contractors; requiring an applicant for a contractor's license or a licensed contractor to notify the State Contractors' Board if the applicant or licensee is convicted of, or pleads guilty, guilty but mentally ill or nolo contendere to, certain crimes; providing that the failure of an applicant or a licensee to submit such notification constitutes grounds for disciplinary action by the Board; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires an applicant for a contractor's license or a licensed contractor to notify the State Contractors' Board in writing within 30 days after the applicant or licensee is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere **, in this State or any other jurisdiction,** to ~~[,]~~ **: (1) a crime against a child; (2) a sexual offense; (3) murder; (4) voluntary manslaughter; or (5)** a felony or crime involving moral turpitude ~~[in this State or any other jurisdiction.]~~ **if the conviction occurred or the plea was entered in the immediately preceding 15 years.**

Section 2 of this bill adds to the list of grounds for disciplinary action by the Board a licensed contractor's failure to submit such notification to the Board.

Section 3 of this bill requires an applicant for a contractor's license or a licensed contractor to notify the Board in writing not later than ~~[July]~~ **December** 31, 2011, if, before July 1, 2011, the applicant or licensee was convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere **, in this State or any other jurisdiction,** to ~~[,]~~ **: (1) a crime against a child; (2) a sexual offense; (3) murder; (4) voluntary manslaughter; or (5)** a felony or crime involving moral turpitude ~~[in this State or any other jurisdiction.]~~ **if the conviction occurred or the plea was entered in the immediately preceding 15 years.** The failure of an applicant or a licensee to submit such notification constitutes grounds for refusing issuance of a license or for disciplinary action by the Board.

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

Section 1. Chapter 624 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An applicant for a contractor's license or a licensee shall notify the Board in writing if he or she is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere to ~~[, a]~~ :

(a) A crime against a child as that term is defined in NRS 179.245;

(b) A sexual offense as that term is defined in NRS 179.245;

(c) Murder as that term is defined in NRS 200.010;

(d) Voluntary manslaughter as that term is defined in NRS 200.050; or

(e) Any other felony or crime involving moral turpitude if the conviction occurred or the plea was entered in the immediately preceding 15 years, in this State or any other jurisdiction.

2. An applicant for a contractor's license or a licensee shall submit the notification required by subsection 1 not more than 30 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere.

Sec. 2. NRS 624.3016 is hereby amended to read as follows:

624.3016 The following acts or omissions, among others, constitute cause for disciplinary action under NRS 624.300:

1. Any fraudulent or deceitful act committed in the capacity of a contractor, including, without limitation, misrepresentation or the omission of a material fact.

2. A conviction of a violation of NRS 624.730, or a conviction in this State or any other jurisdiction of a felony relating to the practice of a contractor or a crime involving moral turpitude.

3. Knowingly making a false statement in or relating to the recording of a notice of lien pursuant to the provisions of NRS 108.226.

4. Failure to give a notice required by NRS 108.227, 108.245 or 108.246.

5. Failure to comply with NRS 624.920, 624.930, 624.935 or 624.940 or any regulations of the Board governing contracts for work concerning residential pools and spas.

6. Failure to comply with NRS 624.600.

7. Misrepresentation or the omission of a material fact, or the commission of any other fraudulent or deceitful act, to obtain a license.

8. Failure to pay an assessment required pursuant to NRS 624.470.

9. Failure to file a certified payroll report that is required for a contract for a public work.

10. Knowingly submitting false information in an application for qualification or a certified payroll report that is required for a contract for a public work.

11. Failure to notify the Board of a conviction ~~[of,]~~ or entry of a plea of guilty, guilty but mentally ill or nolo contendere ~~[to, a felony or crime of moral turpitude in this State or any other jurisdiction]~~ pursuant to section 1 of this act.

Sec. 3. 1. An applicant for a contractor's license or a licensed contractor who, before July 1, 2011, was convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to ~~[, a]~~ **:**

(a) A crime against a child as that term is defined in NRS 179.245;

(b) A sexual offense as that term is defined in NRS 179.245;

(c) Murder as that term is defined in NRS 200.010;

(d) Voluntary manslaughter as that term is defined in NRS 200.050; or

(e) Any other felony or crime of moral turpitude **if the conviction occurred or the plea was entered in the immediately preceding 15 years,** ➥ in this State or any other jurisdiction shall notify the State Contractors' Board in writing of that conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere not later than ~~[July]~~ **December** 31, 2011.

2. The failure of an applicant for a contractor's license to comply with the provisions of subsection 1 constitutes cause for refusing issuance of a license.

3. The failure of a licensed contractor to comply with the provisions of subsection 1 constitutes cause for disciplinary action under NRS 624.300.

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

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 19.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 140.

The following Assembly amendments were read:

Amendment No. 670.

"SUMMARY—Prohibits the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances. (BDR 43-45)"

"AN ACT relating to traffic laws; prohibiting a person from using a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing traffic laws of this State, it is a crime to engage in various activities while operating a motor vehicle or to operate a motor vehicle in a reckless or unsafe manner. (Chapters 484A-484E of NRS) **Section 1** of this bill makes it a crime for a person to manually type or enter text into a cellular telephone or other similar device, or to send or read data using any such device, while operating a motor vehicle. **Section 1** further prohibits a person from using such a device for voice communications unless the device is used with an accessory which allows the person to communicate without using his or her hands, with certain limited exceptions. **Section 1** provides an exception to the prohibitions when the cellular telephone or other device is used by certain emergency and law enforcement personnel and persons designated by a sheriff or chief of police or the Director of the Department of Public Safety who are acting within the course and scope of their employment. Additional exceptions apply if: (1) the person is using the cellular telephone or other device to report or request assistance relating to a medical emergency, a safety hazard or criminal activity; (2) the person is responding to a situation requiring immediate action and stopping the vehicle would be inadvisable, impractical or dangerous; ~~[or]~~ (3) the person is a licensed amateur radio operator providing communications services in connection with a disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information ~~[.]~~ **; or (4) the person is an employee or contractor of a public utility and is responding to an emergency dispatch.** A violation of the provisions added by **section 1** is a misdemeanor and punishable by a fine of $50 for a first offense within the immediately preceding 7 years, $100 for a second offense within the immediately preceding 7 years and $250 for a third or subsequent offense within the immediately preceding 7 years. However, **section 4** of this bill provides that until January 1, 2012, a law enforcement officer must not issue a citation to a

person for violating **section 1** but must give the person a verbal or written warning. **Section 1** further provides that a first offense will not be treated as a moving traffic violation. Additionally, if a person is convicted of a third or subsequent offense, in addition to the fine, the driver's license of the person will be suspended for 6 months. **Section 2** of this bill makes the enhanced penalty for certain traffic violations that occur in a temporary traffic control zone applicable to violations of these new crimes.

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

Section 1. Chapter 484B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a person shall not, while operating a motor vehicle on a highway in this State:

(a) Manually type or enter text into a cellular telephone or other handheld wireless communications device, or send or read data using any such device to access or search the Internet or to engage in nonvoice communications with another person, including, without limitation, texting, electronic messaging and instant messaging.

(b) Use a cellular telephone or other handheld wireless communications device to engage in voice communications with another person, unless the device is used with an accessory which allows the person to communicate without using his or her hands, other than to activate, deactivate or initiate a feature or function on the device.

2. The provisions of this section do not apply to:

(a) A paid or volunteer firefighter, emergency medical technician, ambulance attendant or other person trained to provide emergency medical services who is acting within the course and scope of his or her employment.

(b) A law enforcement officer or any person designated by a sheriff or chief of police or the Director of the Department of Public Safety who is acting within the course and scope of his or her employment.

(c) A person who is reporting a medical emergency, a safety hazard or criminal activity or who is requesting assistance relating to a medical emergency, a safety hazard or criminal activity.

(d) A person who is responding to a situation requiring immediate action to protect the health, welfare or safety of the driver or another person and stopping the vehicle would be inadvisable, impractical or dangerous.

(e) A person who is licensed by the Federal Communications Commission as an amateur radio operator and who is providing a communication service in connection with an actual or impending disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information.

(f) An employee or contractor of a public utility who uses a handheld wireless communications device:

(1) That has been provided by the public utility; and

(2) While responding to a dispatch by the public utility to respond to an emergency, including, without limitation, a response to a power outage or an interruption in utility service.

3. The provisions of this section do not prohibit the use of a voice-operated global positioning or navigation system that is affixed to the vehicle.

4. A person who violates any provision of subsection 1 is guilty of a misdemeanor and:

(a) For the first offense within the immediately preceding 7 years, shall pay a fine of $50.

(b) For the second offense within the immediately preceding 7 years, shall pay a fine of $100.

(c) For the third or subsequent offense within the immediately preceding 7 years, shall pay a fine of $250.

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

6. The Department of Motor Vehicles shall not treat a first violation of this section in the manner statutorily required for a moving traffic violation.

7. For the purposes of this section, a person shall be deemed not to be operating a motor vehicle if the motor vehicle is driven autonomously through the use of artificial-intelligence software and the autonomous operation of the motor vehicle is authorized by law.

8. As used in this section ~~[, "handheld]~~ :

(a) "Handheld wireless communications device" means a handheld device for the transfer of information without the use of electrical conductors or wires and includes, without limitation, a cellular telephone, a personal digital assistant, a pager and a text messaging device. The term does not include a device used for two-way radio communications if:

~~[(a)]~~ (1) The person using the device has a license to operate the device, if required; and

~~[(b)]~~ (2) All the controls for operating the device, other than the microphone and a control to speak into the microphone, are located on a unit which is used to transmit and receive communications and which is separate from the microphone and is not intended to be held.

(b) "Public utility" means a supplier of electricity or natural gas or a provider of telecommunications service for public use who is subject to regulation by the Public Utilities Commission of Nevada.

Sec. 2. NRS 484B.130 is hereby amended to read as follows:

484B.130 1. Except as otherwise provided in subsections 2 and 6, a person who is convicted of a violation of a speed limit, or of NRS 484B.150, 484B.163, 484B.200 to 484B.217, inclusive, 484B.223, 484B.227,

484B.300, 484B.303, 484B.317, 484B.320, 484B.327, 484B.330, 484B.403, 484B.587, 484B.600, 484B.603, 484B.610, 484B.613, 484B.650, 484B.653, 484B.657, 484C.110 or 484C.120, ***or section 1 of this act,*** that occurred:

(a) In an area designated as a temporary traffic control zone; and

(b) At a time when the workers who are performing construction, maintenance or repair of the highway or other work are present, or when the effects of the act may be aggravated because of the condition of the highway caused by construction, maintenance or repair, including, without limitation, reduction in lane width, reduction in the number of lanes, shifting of lanes from the designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement-treated bases, chip seals and other similar conditions,

➥ shall be punished by imprisonment or by a fine, or both, for a term or an amount equal to and in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense. Any term of imprisonment imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

2. The additional penalty imposed pursuant to subsection 1 must not exceed a total of $1,000, 6 months of imprisonment or 120 hours of community service.

3. Except as otherwise provided in subsection 5, a governmental entity that designates an area or authorizes the designation of an area as a temporary traffic control zone in which construction, maintenance or repair of a highway or other work is conducted, or the person with whom the governmental entity contracts to provide such service, shall cause to be erected:

(a) A sign located before the beginning of such an area stating "DOUBLE PENALTIES IN WORK ZONES" to indicate a double penalty may be imposed pursuant to this section;

(b) A sign to mark the beginning of the temporary traffic control zone; and

(c) A sign to mark the end of the temporary traffic control zone.

4. A person who otherwise would be subject to an additional penalty pursuant to this section is not relieved of any criminal liability because signs are not erected as required by subsection 3 if the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to $1,000 or more.

5. The requirements of subsection 3 do not apply to an area designated as a temporary traffic control zone:

(a) Pursuant to an emergency which results from a natural or other disaster and which threatens the health, safety or welfare of the public; or

(b) On a public highway where the posted speed limit is 25 miles per hour or less and that provides access to or is appurtenant to a residential area.

6. A person who would otherwise be subject to an additional penalty pursuant to this section is not subject to an additional penalty if the violation occurred in a temporary traffic control zone for which signs are not erected pursuant to subsection 5, unless the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to $1,000 or more.

Sec. 3. NRS 707.375 is hereby amended to read as follows:

707.375 1. ~~[An]~~ ***Except as otherwise provided in section 1 of this act, an*** agency, board, commission or political subdivision of this State, including, without limitation, any agency, board, commission or governing body of a local government, shall not regulate the use of a telephonic device by a person who is operating a motor vehicle.

2. As used in subsection 1, "telephonic device" means a cellular phone, satellite phone, portable phone or any other similar electronic device that is handheld and designed or used to communicate with ~~[a]~~ ***another*** person.

Sec. 4. Notwithstanding the provisions of section 1 of this act, on or before December 31, 2011, a law enforcement officer shall not issue a citation for a violation of the provisions of section 1 of this act but shall issue a verbal or written warning to a person who violates those provisions informing the person that he or she has violated the provisions of section 1 of this act and of the penalties that will apply to such a violation after December 31, 2011.

Amendment No. 809.

"SUMMARY—Prohibits the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances. (BDR 43-45)"

"AN ACT relating to traffic laws; prohibiting a person from using a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing traffic laws of this State, it is a crime to engage in various activities while operating a motor vehicle or to operate a motor vehicle in a reckless or unsafe manner. (Chapters 484A-484E of NRS) **Section 1** of this bill makes it a crime for a person to manually type or enter text into a cellular telephone or other similar device, or to send or read data using any such device, while operating a motor vehicle. **Section 1** further prohibits a person from using such a device for voice communications unless the device is used with an accessory which allows the person to communicate without using his or her hands, with certain limited exceptions. **Section 1** provides an exception to the prohibitions when the cellular telephone or other device is

used by certain emergency and law enforcement personnel and persons designated by a sheriff or chief of police or the Director of the Department of Public Safety who are acting within the course and scope of their employment. Additional exceptions apply if: (1) the person is using the cellular telephone or other device to report or request assistance relating to a medical emergency, a safety hazard or criminal activity; (2) the person is responding to a situation requiring immediate action and stopping the vehicle would be inadvisable, impractical or dangerous; ~~[or]~~ (3) the person is a licensed amateur radio operator providing communications services in connection with a disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information ~~[.]~~ **; or (4) the person is an employee or contractor of a public utility and is responding to an emergency dispatch.** A violation of the provisions added by **section 1** is a misdemeanor and punishable by a fine of $50 for a first offense within the immediately preceding 7 years, $100 for a second offense within the immediately preceding 7 years and $250 for a third or subsequent offense within the immediately preceding 7 years. However, **section 4** of this bill provides that until January 1, 2012, a law enforcement officer must not issue a citation to a person for violating **section 1** but must give the person a verbal or written warning. **Section 1** further provides that a first offense will not be treated as a moving traffic violation. Additionally, if a person is convicted of a third or subsequent offense, in addition to the fine, the driver's license of the person will be suspended for 6 months. **Section 2** of this bill makes the enhanced penalty for certain traffic violations that occur in a temporary traffic control zone applicable to violations of these new crimes.

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

Section 1. Chapter 484B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a person shall not, while operating a motor vehicle on a highway in this State:

(a) Manually type or enter text into a cellular telephone or other handheld wireless communications device, or send or read data using any such device to access or search the Internet or to engage in nonvoice communications with another person, including, without limitation, texting, electronic messaging and instant messaging.

(b) Use a cellular telephone or other handheld wireless communications device to engage in voice communications with another person, unless the device is used with an accessory which allows the person to communicate without using his or her hands, other than to activate, deactivate or initiate a feature or function on the device.

2. The provisions of this section do not apply to:

(a) A paid or volunteer firefighter, emergency medical technician, ambulance attendant or other person trained to provide emergency medical

services who is acting within the course and scope of his or her employment.

(b) A law enforcement officer or any person designated by a sheriff or chief of police or the Director of the Department of Public Safety who is acting within the course and scope of his or her employment.

(c) A person who is reporting a medical emergency, a safety hazard or criminal activity or who is requesting assistance relating to a medical emergency, a safety hazard or criminal activity.

(d) A person who is responding to a situation requiring immediate action to protect the health, welfare or safety of the driver or another person and stopping the vehicle would be inadvisable, impractical or dangerous.

(e) A person who is licensed by the Federal Communications Commission as an amateur radio operator and who is providing a communication service in connection with an actual or impending disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information.

(f) An employee or contractor of a public utility who uses a handheld wireless communications device:

(1) That has been provided by the public utility; and

(2) While responding to a dispatch by the public utility to respond to an emergency, including, without limitation, a response to a power outage or an interruption in utility service.

3. The provisions of this section do not prohibit the use of a voice-operated global positioning or navigation system that is affixed to the vehicle.

4. A person who violates any provision of subsection 1 is guilty of a misdemeanor and:

(a) For the first offense within the immediately preceding 7 years, shall pay a fine of $50.

(b) For the second offense within the immediately preceding 7 years, shall pay a fine of $100.

(c) For the third or subsequent offense within the immediately preceding 7 years, shall pay a fine of $250.

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

6. The Department of Motor Vehicles shall not treat a first violation of this section in the manner statutorily required for a moving traffic violation.

7. For the purposes of this section, a person shall be deemed not to be operating a motor vehicle if the motor vehicle is driven autonomously through the use of artificial-intelligence software and the autonomous operation of the motor vehicle is authorized by law.

8. As used in this section ~~*[, "handheld]*~~ ***:***

(a) "Handheld wireless communications device" means a handheld device for the transfer of information without the use of electrical conductors or wires and includes, without limitation, a cellular telephone, a personal digital assistant, a pager and a text messaging device. The term does not include a device used for two-way radio communications if:

~~[(a)]~~ (1) The person using the device has a license to operate the device, if required; and

~~[(b)]~~ (2) All the controls for operating the device, other than the microphone and a control to speak into the microphone, are located on a unit which is used to transmit and receive communications and which is separate from the microphone and is not intended to be held.

(b) "Public utility" means a supplier of electricity or natural gas or a provider of telecommunications service for public use who is subject to regulation by the Public Utilities Commission of Nevada.

Sec. 2. NRS 484B.130 is hereby amended to read as follows:

484B.130 1. Except as otherwise provided in subsections 2 and 6, a person who is convicted of a violation of a speed limit, or of NRS 484B.150, 484B.163, 484B.200 to 484B.217, inclusive, 484B.223, 484B.227, 484B.300, 484B.303, 484B.317, 484B.320, 484B.327, 484B.330, 484B.403, 484B.587, 484B.600, 484B.603, 484B.610, 484B.613, 484B.650, 484B.653, 484B.657, 484C.110 or 484C.120, ***or section 1 of this act,*** that occurred:

(a) In an area designated as a temporary traffic control zone; and

(b) At a time when the workers who are performing construction, maintenance or repair of the highway or other work are present, or when the effects of the act may be aggravated because of the condition of the highway caused by construction, maintenance or repair, including, without limitation, reduction in lane width, reduction in the number of lanes, shifting of lanes from the designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement-treated bases, chip seals and other similar conditions,

➥ shall be punished by imprisonment or by a fine, or both, for a term or an amount equal to and in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense. Any term of imprisonment imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

2. The additional penalty imposed pursuant to subsection 1 must not exceed a total of $1,000, 6 months of imprisonment or 120 hours of community service.

3. Except as otherwise provided in subsection 5, a governmental entity that designates an area or authorizes the designation of an area as a temporary traffic control zone in which construction, maintenance or repair of a highway or other work is conducted, or the person with whom the

governmental entity contracts to provide such service, shall cause to be erected:

(a) A sign located before the beginning of such an area stating "DOUBLE PENALTIES IN WORK ZONES" to indicate a double penalty may be imposed pursuant to this section;

(b) A sign to mark the beginning of the temporary traffic control zone; and

(c) A sign to mark the end of the temporary traffic control zone.

4. A person who otherwise would be subject to an additional penalty pursuant to this section is not relieved of any criminal liability because signs are not erected as required by subsection 3 if the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to $1,000 or more.

5. The requirements of subsection 3 do not apply to an area designated as a temporary traffic control zone:

(a) Pursuant to an emergency which results from a natural or other disaster and which threatens the health, safety or welfare of the public; or

(b) On a public highway where the posted speed limit is 25 miles per hour or less and that provides access to or is appurtenant to a residential area.

6. A person who would otherwise be subject to an additional penalty pursuant to this section is not subject to an additional penalty if the violation occurred in a temporary traffic control zone for which signs are not erected pursuant to subsection 5, unless the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to $1,000 or more.

Sec. 3. NRS 707.375 is hereby amended to read as follows:

707.375 1. ~~[An]~~ ***Except as otherwise provided in section 1 of this act, an*** agency, board, commission or political subdivision of this State, including, without limitation, any agency, board, commission or governing body of a local government, shall not regulate the use of a telephonic device by a person who is operating a motor vehicle.

2. As used in subsection 1, "telephonic device" means a cellular phone, satellite phone, portable phone or any other similar electronic device that is handheld and designed or used to communicate with ~~[a]~~ ***another*** person.

Sec. 4. Notwithstanding the provisions of section 1 of this act, on or before December 31, 2011, a law enforcement officer shall not issue a citation for a violation of the provisions of section 1 of this act but shall issue a verbal or written warning to a person who violates those provisions informing the person that he or she has violated the provisions of section 1 of this act and of the penalties that will apply to such a violation after December 31, 2011.

Senator Breeden moved that the Senate concur in the Assembly amendments to Senate Bill No. 140.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 151.

The following Assembly amendment was read:

Amendment No. 648.

"SUMMARY—Requires certain governmental entities to develop a plan for a regional rapid transit system. (BDR 22-612)"

"AN ACT relating to transportation; requiring certain governmental entities in certain counties to develop a plan for a regional rapid transit system; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires the regional transportation commission in any county whose population is 700,000 or more (currently Clark County) to establish a regional rapid transit authority. The authority is required to analyze various considerations concerning the development of a regional rapid transit system, to develop a plan for such a system and to report to the appropriate committees of the Legislature the progress made on such analyses and plan development.

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 277A of NRS is hereby amended by adding thereto a new section to read as follows:

1. In a county whose population is 700,000 or more, the commission shall establish a regional rapid transit authority. The membership of the regional rapid transit authority must consist of:

(a) The general manager of the commission, who shall act as chair of the authority;

(b) One member appointed by the board of county commissioners;

(c) Three members, one from each of the three largest cities within the county, who are appointed by the respective governing bodies of each city;

(d) One member selected by the association of gaming establishments whose membership collectively paid the most gaming license fees to the State pursuant to NRS 463.370 in the county in the preceding year;

(e) One member who is selected by the economic development authority in the county;

(f) One member selected by the Department of Transportation; and

(g) One member who has expertise in urban planning and design or architecture selected by the Nevada Arts Council.

2. The regional rapid transit authority shall develop a plan for the establishment of a regional rapid transit system:

(a) In cooperation with economic development, engineering, planning , ~~[and]~~ tourism and utility interests in the county; and

(b) With the goal of quantifying the implications of introducing an exclusive rapid transit system in identified corridors in the county.

3. In carrying out its duties pursuant to subsection 2, the regional rapid transit authority shall:

(a) Hold public meetings to, without limitation:

(1) Evaluate the need for and desirability of a regional rapid transit system;

(2) Assess corridor and route feasibility and desirability; and

(3) Review existing mass transit options to determine how to incorporate such options into a regional rapid transit system;

(b) Undertake an analysis of various considerations involved with introducing and implementing a regional rapid transit system in the county, including, without limitation:

(1) An assessment of the available rapid transit technologies, including, without limitation, technologies that use solar power or other renewable energy sources to minimize or eliminate the use of carbon-based fuels;

(2) An assessment of the opportunities, costs and constraints of corridor options, including, without limitation:

(I) An examination and evaluation of existing rail corridors and transit routes for inclusion in the regional rapid transit system;

(II) An evaluation of potential sites for stations and facilities for the regional rapid transit system; and

(III) Identification of locations in the county that would benefit most from proximity to a regional rapid transit system, including, without limitation, airports and existing or proposed special event venues such as stadiums and racetracks;

(3) Estimates as to capital and operating costs;

(4) An assessment of potential ridership and passenger demand;

(5) An assessment of the environmental impact;

(6) A potential project schedule; and

(7) An assessment of financing options and funding sources, including, without limitation:

(I) Processes for securing federal funding; and

(II) The potential for voter approval for bonds to support any portion of the regional rapid transit system.

4. On or before February 1 of each year, the regional rapid transit authority shall submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must set forth, without limitation:

(a) The activities and meetings of the authority;

(b) Any findings made by the authority regarding the analysis required by subsection 3; and

(c) The plan or current draft of the plan developed by the authority pursuant to subsection 2.

Sec. 5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. This act becomes effective upon passage and approval.

Senator Breeden moved that the Senate concur in the Assembly amendment to Senate Bill No. 151.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 238.

The following Assembly amendment was read:

Amendment No. 668.

"SUMMARY—Revises provisions concerning the Advisory Board on Automotive Affairs. (BDR 43-994)"

"AN ACT relating to motor vehicles; increasing the membership and revising the duties of the Advisory Board on Automotive Affairs; establishing certain qualifications for membership on the Board; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Advisory Board on Automotive Affairs consists of seven members appointed by the Governor. One member represents the Department of Motor Vehicles, the general public is represented by two members, and body shops, automobile wreckers, garages and salvage pools are each represented by one member. The Board's duties include: (1) studying the regulation of the businesses and industries that are represented on the Board; (2) analyzing and advising the Department with respect to consumer complaints relating to those businesses and industries; and (3) making recommendations to the Department for regulations or legislation concerning those businesses and industries. Before each regular session of the Legislature, the Board prepares a report of its activities and recommendations for submission to the Governor and the Legislature. (NRS 487.002)

This bill increases the membership of the Board to 10 members. Three new members are added, one to represent each of the following businesses or industries: (1) authorized emissions stations; (2) insurers of motor vehicles; and (3) new or used motor vehicle dealers. This bill also establishes certain qualifications for membership on the Board. Every member must have been a resident of this state for at least 5 years immediately preceding his or her appointment. This bill also requires that at least one of the two members appointed to represent the general public be a resident of a county whose population is less than 55,000 (currently counties other than Clark and Washoe Counties and Carson City). In addition, each member appointed to represent a business or industry must hold the appropriate license or registration to engage in that business or industry and must have been actively engaged in that business or industry for at least 3 of the 5 years

immediately preceding his or her appointment. Finally, this bill requires the Board to extend the scope of its existing duties to include all the businesses and industries **, except for insurers of motor vehicles,** that are represented on the Board.

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

Section 1. NRS 487.002 is hereby amended to read as follows:

487.002 1. The Advisory Board on Automotive Affairs, consisting of ~~[seven]~~ ***10*** members appointed by the Governor, is hereby created within the Department.

2. The Governor shall appoint to the Board:

(a) One representative of the Department;

(b) One representative of licensed operators of body shops;

(c) One representative of licensed automobile wreckers;

(d) One representative of registered garage operators;

(e) One representative of licensed operators of salvage pools; ~~[and]~~

(f) ~~[Two representatives]~~ ***One representative of licensed operators of authorized emissions stations;***

(g) One representative of licensed insurers of motor vehicles;

(h) One representative of licensed new or used motor vehicle dealers; and

(i) Two representatives of the general public ~~[.]~~ ***, at least one of whom must be a resident of a county whose population is less than 55,000. A member appointed pursuant to this paragraph must not be:***

(1) A holder of a license or registration identified in paragraphs (b) to (h), inclusive; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a holder of such a license or registration.

3. ***Each member appointed must, at the time of his or her appointment, have been a resident of this State for at least 5 years immediately preceding the appointment. Each member who is appointed to represent a business or industry specified in paragraphs (b) to (h), inclusive, of subsection 2, must, at the time of his or her appointment:***

(a) Hold a license or registration to engage in the business or industry that the member is appointed to represent; and

(b) Have been actively engaged in the business or industry that the member is appointed to represent for at least 3 of the 5 years immediately preceding the appointment.

4. After the initial terms, each member of the Board serves a term of 4 years. The members of the Board shall annually elect from among their number a Chair and a Vice Chair. ***The Chair is not entitled to a vote except to break a tie.*** The Department shall provide secretarial services for the Board.

~~[4.]~~ ***5.*** The Board shall meet regularly at least twice each year and may meet at other times upon the call of the Chair ~~[.]~~ ***or a majority of the***

members of the Board. Six members of the Board constitute a quorum, and a quorum may exercise all the power and authority conferred on the Board. Each member of the Board is entitled to the per diem allowance and travel expenses provided for state officers and employees generally ~~[~~.

~~5.]~~ ***while attending meetings of the Board.***

6. The Board shall:

(a) Study the regulation of garage operators, automobile wreckers , ~~[and]~~ operators of body shops ~~[and]~~ ***, operators of*** salvage pools, ***operators of authorized emissions stations*** ~~*[, insurers of motor vehicles]*~~ ***and new and used motor vehicle dealers,*** including, without limitation, the registration or licensure of such persons and the methods of disciplinary action against such persons;

(b) Analyze and advise the Department relating to any consumer complaints received by the Department concerning garage operators, automobile wreckers ***,*** ~~[or]~~ operators of body shops ***,*** ~~[or]~~ ***operators of*** salvage pools ~~[;]~~ ***, operators of authorized emissions stations*** ~~*[, insurers of motor vehicles]*~~ ***and new and used motor vehicle dealers;***

(c) Make recommendations to the Department for any necessary regulations or proposed legislation pertaining to paragraph (a) or (b);

(d) On or before January 15 of each odd-numbered year, prepare and submit a report concerning its activities and recommendations to the Governor and to the Director of the Legislative Counsel Bureau for transmission to the Legislature ~~[;]~~ ***and the Chairs of the Senate and Assembly Standing Committees on Transportation;*** and

(e) Perform any other duty assigned by the Department.

7. As used in this section, "authorized emissions stations" means stations licensed by the Department pursuant to NRS 445B.775 to inspect, repair, adjust or install devices for the control of emissions of motor vehicles.

Sec. 2. 1. The terms of the current members of the Advisory Board on Automotive Affairs appointed pursuant to paragraph (f) of subsection 2 of NRS 487.002 expire on June 30, 2011.

2. As soon as practicable after July 1, 2011, the Governor shall appoint to the Advisory Board on Automotive Affairs the members required by paragraphs (f) to (i), inclusive, of subsection 2 of NRS 487.002, as amended by section 1 of this act. The initial term of the members appointed pursuant to paragraphs (f) and (g) of subsection 2 of NRS 487.002 as amended by section 1 of this act expire on June 30, 2013. The initial term of the member appointed pursuant to paragraph (h) of subsection 2 of NRS 487.002 as amended by section 1 of this act expires on June 30, 2015. The initial term of one member appointed pursuant to paragraph (i) of subsection 2 of NRS 487.002 as amended by section 1 of this act expires on June 30, 2013, and the initial term of the other member appointed pursuant to paragraph (i) of subsection 2 of NRS 487.002 as amended by section 1 of this act expires on June 30, 2015.

Sec. 3. Notwithstanding the amendatory provisions of this act, a member of the Advisory Board on Automotive Affairs who was appointed pursuant to paragraphs (a) to (e), inclusive, of subsection 2 of NRS 487.002 and who is serving a term on July 1, 2011, is entitled to serve out the remainder of the term to which he or she was appointed.

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

2. Sections 1 and 3 of this act become effective on July 1, 2011.

Senator Breeden moved that the Senate concur in the Assembly amendment to Senate Bill No. 238.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 472.

The following Assembly amendment was read:

Amendment No. 781.

"SUMMARY—Makes a supplemental appropriation to the Department of Corrections to cover stale claims for prison medical care. (BDR S-1228)"

"AN ACT making a supplemental appropriation to the Department of Corrections to cover stale claims for prison medical care for Fiscal Year 2007-2008; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the Department of Corrections the sum of $9,579 to cover stale claims for **personnel expenditures for** prison medical care for Fiscal Year 2007-2008. This appropriation is supplemental to that made in section 23 of chapter 388, Statutes of Nevada 2009, at page 2111.

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

Senator Horsford moved that the Senate concur in the Assembly amendment to Senate Bill No. 472.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Joint Resolution No. 3.

The following Assembly amendment was read:

Amendment No. 627.

"SUMMARY—Urges Congress to enact legislation to require the Secretary of the Interior to convey ownership of certain land to the State of Nevada to help fund education. (BDR R-90)"

SENATE JOINT RESOLUTION—Urging Congress to enact legislation requiring the Secretary of the Interior to convey ownership of certain land to the State of Nevada to help fund education in Nevada.

WHEREAS, The State of Nevada and other western states face unique challenges in providing the best education to their residents due to vast acreages of untaxable federal lands within their borders; and

WHEREAS, Early in Nevada's history, the Congress of the United States recognized the importance of supporting public education in Nevada and established school trust lands in Nevada to help fund education in the State; and

WHEREAS, When the Territory of Nevada was admitted to statehood, the Federal Government provided Nevada with two sections of land in each township for the benefit of common schools, which amounted to 3.9 million acres, while other territories that were subsequently admitted to statehood received four sections of land in each township for the benefit of common schools; and

WHEREAS, The land originally granted by the Federal Government to Nevada for common schools was not providing sufficient revenue for education because the land included large sections that were undesirable or difficult to survey; and

WHEREAS, In 1880, it was necessary for Nevada to agree to exchange its 3.9 million acres for only 2 million acres of its own selection, as Nevada had an immediate need for public school revenues; and

WHEREAS, The disproportionately small amount of land received from the Federal Government for the benefit of common schools contributes only a small amount of revenue for the schools in Nevada in comparison to other states and places an excessive burden on the financial resources of each county in Nevada; and

WHEREAS, In Nevada, approximately 87 percent of the land, which amounts to approximately 61 million acres, is held by the Federal Government; and

WHEREAS, In 15 of the 17 counties in Nevada, more than 50 percent of the land is held by the Federal Government, and in 4 of the 17 counties, more than 90 percent of the land is held by the Federal Government; and

WHEREAS, The ~~[management and control]~~ **ownership** of such an extensive amount of the land in Nevada by the Federal Government has an adverse effect on the ability of **the school districts in** Nevada to provide ~~[a]~~ **funding for** quality education ~~[to its]~~ **for the** residents ~~[,]~~ **of Nevada;** and

WHEREAS, Nevada and the other western states are falling behind in education funding as measured by the growth of expenditures per pupil; and

WHEREAS, The difficulty experienced by Nevada and the other western states in providing a quality education to their residents is exacerbated by projections that enrollment in public schools from 2007 to 2019 is expected to increase by approximately 34 percent in Nevada and the other western states, but increase by less than 1 percent in the remaining states in the United States; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the members of the 76th Session of the Nevada

Legislature urge Congress and the Nevada Congressional Delegation to enact legislation requiring the Secretary of the Interior to convey ownership of federal land located in Nevada from the Federal Government to Nevada to help fund education for the residents of Nevada and to put the education system of Nevada in parity with that of the other states in the United States; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the President of the United States, the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Manendo moved that the Senate concur in the Assembly amendment to Senate Joint Resolution No. 3.

Motion carried by a constitutional majority.

Bill ordered enrolled.

RECEDE FROM SENATE AMENDMENTS

Senator Parks moved that the Senate recede from its action on Assembly Bill No. 81.

Remarks by Senator Parks.

Motion carried.

Bill ordered transmitted to the Assembly.

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

Senate in recess at 3:28 p.m.

SENATE IN SESSION

At 4:35 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 503, 504, 505, 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. 423, 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 referred Senate Bills Nos. 11, 425; Assembly Bills Nos. 137, 562, 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. 347, 370, 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. 228, 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 Natural Resources, to which was referred Assembly Bill No. 167, 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*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 4, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 123.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that for the remainder of this Legislative session, that all necessary rules be suspended, reading so far be considered to have fulfilled the requirements of second reading, and that all bills and joint resolutions reported out of committee with a "Do pass" be declared an emergency measure under the Constitution and immediately be placed on General File for that legislative day, time permitting.

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 4:38 p.m.

SENATE IN SESSION

At 4:47 p.m.

President Krolicki presiding.

Quorum present.

Motion carried.

Senator Wiener moved that for the remainder of this day, all necessary rules be suspended and that all bills on which amendments are adopted be declared emergency measures under the Constitution and be placed on General File on the next agenda upon return from reprint, time permitting.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 347.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 912.

"SUMMARY— ~~[Confers the powers of a peace officer upon certain employees]~~ **Authorizes the Administrator** of the Aging and Disability Services Division of the Department of Health and Human Services ~~[for certain purposes.]~~ **to administer oaths, take testimony and issue subpoenas under certain circumstances.** (BDR ~~[23-1075)"]~~ **15-1075)**

"AN ACT relating to older persons; ~~[conferring the powers of a peace officer upon certain employees]~~ **authorizing the Administrator** of the Aging and Disability Services Division of the Department of Health and Human Services ~~[for certain purposes;]~~ **to administer oaths, take testimony and issue subpoenas under certain circumstances;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain persons who have reasonable cause to believe that an older person **or a vulnerable person** has been abused, neglected, exploited or isolated to report the abuse, neglect, exploitation or isolation of the older person **or a vulnerable person** to the Aging and Disability Services Division of the Department of Health and Human Services, or a local office thereof, a police department, sheriff's office or a county's office for protective services. (NRS 200.5093 **, 200.50935**) The exploitation of an older person **or a vulnerable person** consists of wrongfully depriving the older person ***or vulnerable person*** of the ownership, use, benefit or possession of his or her money, assets or property. (NRS 200.5092) ~~[Section 4 of this bill confers upon employees of the Division, as designated by the Administrator of the Division, the powers of a peace officer when performing duties relating to investigations of reports of abuse, neglect, exploitation or isolation of older persons or vulnerable persons.~~

~~Section 5 of this bill designates as category II peace officers employees of the Division, as designated by the Administrator of the Division, when performing duties relating to investigations of reports of abuse, neglect, exploitation or isolation of older persons or vulnerable persons.]~~

Section 6 of this bill authorizes the Administrator of the Division to administer oaths, take testimony and issue subpoenas requiring the attendance of witnesses and the production of certain materials in an investigation of the alleged abuse, neglect, exploitation or isolation of an older person or a vulnerable person.

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 289.240 is hereby amended to read as follows:~~

~~289.240 *1.* Forensic technicians and correctional officers employed by the Division of Mental Health and Developmental Services of the Department of Health and Human Services at facilities for offenders with~~

~~mental disorders have the powers of peace officers when performing duties prescribed by the Administrator of the Division.~~

~~*2. Employees of the Aging and Disability Services Division of the Department of Health and Human Services, as designated by the Administrator of the Division, have the powers of peace officers when performing duties pursuant to NRS 200.5091 to 200.50995, inclusive.]*~~

(Deleted by amendment.)

Sec. 5. ~~[~~NRS 289.470 is hereby amended to read as follows:

~~289.470 "Category II peace officer" means:~~

~~1. The Bailiff of the Supreme Court;~~

~~2. The bailiffs of the district courts, justice courts and municipal courts whose duties require them to carry weapons and make arrests;~~

~~3. Constables and their deputies whose official duties require them to carry weapons and make arrests;~~

~~4. Inspectors employed by the Nevada Transportation Authority who exercise those powers of enforcement conferred by chapters 706 and 712 of NRS;~~

~~5. Parole and probation officers;~~

~~6. Special investigators who are employed full-time by the office of any district attorney or the Attorney General;~~

~~7. Investigators of arson for fire departments who are specially designated by the appointing authority;~~

~~8. The assistant and deputies of the State Fire Marshal;~~

~~9. The brand inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by chapter 565 of NRS;~~

~~10. The field agents and inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by NRS 561.225;~~

~~11. Investigators for the State Forester Firewarden who are specially designated by the State Forester Firewarden and whose primary duties are related to the investigation of arson;~~

~~12. School police officers employed by the board of trustees of any county school district;~~

~~13. Agents of the State Gaming Control Board who exercise the powers of enforcement specified in NRS 289.360, 463.140 or 463.1405, except those agents whose duties relate primarily to auditing, accounting, the collection of taxes or license fees, or the investigation of applicants for licenses;~~

~~14. Investigators and administrators of the Division of Compliance Enforcement of the Department of Motor Vehicles who perform the duties specified in subsection 2 of NRS 481.048;~~

~~15. Officers and investigators of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles who perform the duties specified in subsection 3 of NRS 481.0481;~~

~~16. Legislative police officers of the State of Nevada;~~

~~17. The personnel of the Capitol Police Division of the Department of Public Safety appointed pursuant to subsection 2 of NRS 331.140;~~

~~18. Parole counselors of the Division of Child and Family Services of the Department of Health and Human Services;~~

~~19. Juvenile probation officers and deputy juvenile probation officers employed by the various judicial districts in the State of Nevada or by a department of juvenile justice services established by ordinance pursuant to NRS 62G.210 whose official duties require them to enforce court orders on juvenile offenders and make arrests;~~

~~20. Field investigators of the Taxicab Authority;~~

~~21. Security officers employed full-time by a city or county whose official duties require them to carry weapons and make arrests;~~

~~22. The chief of a department of alternative sentencing created pursuant to NRS 211A.080 and the assistant alternative sentencing officers employed by that department;~~

~~23. Criminal investigators who are employed by the Secretary of State;~~ ~~[and]~~

~~24. The Inspector General of the Department of Corrections and any person employed by the Department as a criminal investigator~~ ~~[.]~~ ~~*; and*~~

~~*25. Employees of the Aging and Disability Services Division of the Department of Health and Human Services, as designated by the Administrator of the Division, when performing duties pursuant to NRS 200.5091 to 200.50995, inclusive.]*~~ **(Deleted by amendment.)**

Sec. 6. **Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. The Administrator of the Aging and Disability Services Division of the Department of Health and Human Services or a representative designated by the Administrator may, for the purpose of investigating an alleged violation of NRS 200.5091 to 200.50995, inclusive:

(a) Administer oaths and take testimony thereunder; and

(b) Issue subpoenas requiring the attendance of witnesses before the Division at a designated time and place and the production of books, papers and records.

2. If a witness fails to appear or refuses to give testimony or to produce books, papers and records as required by the subpoena, the district court of the county in which the investigation is being conducted may compel the attendance of the witness, the giving of testimony and the production of books, papers and records as required by the subpoena.

Sec. 7. **NRS 200.5092 is hereby amended to read as follows:**

200.5092 As used in NRS 200.5091 to 200.50995, inclusive, ***and section 6 of this act,*** unless the context otherwise requires:

1. "Abuse" means willful and unjustified:

(a) Infliction of pain, injury or mental anguish on an older person or a vulnerable person; or

(b) Deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of an older person or a vulnerable person.

2. "Exploitation" means any act taken by a person who has the trust and confidence of an older person or a vulnerable person or any use of the power of attorney or guardianship of an older person or a vulnerable person to:

(a) Obtain control, through deception, intimidation or undue influence, over the older person's or vulnerable person's money, assets or property with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his or her money, assets or property; or

(b) Convert money, assets or property of the older person or vulnerable person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his or her money, assets or property.

➥ As used in this subsection, "undue influence" does not include the normal influence that one member of a family has over another.

3. "Isolation" means willfully, maliciously and intentionally preventing an older person or a vulnerable person from having contact with another person by:

(a) Intentionally preventing the older person or vulnerable person from receiving visitors, mail or telephone calls, including, without limitation, communicating to a person who comes to visit the older person or vulnerable person or a person who telephones the older person or vulnerable person that the older person or vulnerable person is not present or does not want to meet with or talk to the visitor or caller knowing that the statement is false, contrary to the express wishes of the older person or vulnerable person and intended to prevent the older person or vulnerable person from having contact with the visitor; or

(b) Physically restraining the older person or vulnerable person to prevent the older person or vulnerable person from meeting with a person who comes to visit the older person or vulnerable person.

➥ The term does not include an act intended to protect the property or physical or mental welfare of the older person or vulnerable person or an act performed pursuant to the instructions of a physician of the older person or vulnerable person.

4. "Neglect" means the failure of:

(a) A person who has assumed legal responsibility or a contractual obligation for caring for an older person or a vulnerable person or who has voluntarily assumed responsibility for his or her care to provide food, shelter, clothing or services which are necessary to maintain the physical or mental health of the older person or vulnerable person; or

(b) An older person or a vulnerable person to provide for his or her own needs because of inability to do so.

5. "Older person" means a person who is 60 years of age or older.

6. "Protective services" means services the purpose of which is to prevent and remedy the abuse, neglect, exploitation and isolation of older persons. The services may include investigation, evaluation, counseling, arrangement and referral for other services and assistance.

7. "Vulnerable person" means a person 18 years of age or older who:

(a) Suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or

(b) Has one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living.

Sec. 8. **NRS 200.50925 is hereby amended to read as follows:**

200.50925 For the purposes of NRS 200.5091 to 200.50995, inclusive, ***and section 6 of this act,*** a person:

1. Has "reasonable cause to believe" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.

2. Acts "as soon as reasonably practicable" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would act within approximately the same period under those facts and circumstances.

Sec. 9. **NRS 200.5096 is hereby amended to read as follows:**

200.5096 Immunity from civil or criminal liability extends to every person who, pursuant to NRS 200.5091 to 200.50995, inclusive, ***and section 6 of this act,*** in good faith:

1. Participates in the making of a report;

2. Causes or conducts an investigation of alleged abuse, neglect, exploitation or isolation of an older person or a vulnerable person; or

3. Submits information contained in a report to a licensing board pursuant to subsection 4 of NRS 200.5095.

Sec. 10. **NRS 200.5097 is hereby amended to read as follows:**

200.5097 In any proceeding resulting from a report made or action taken pursuant to NRS 200.5091 to 200.50995, inclusive, ***and section 6 of this act*** or in any other proceeding, the report or its contents or any other fact related thereto or to the condition of the older person or vulnerable person who is the subject of the report may not be excluded on the ground that the matter would otherwise be privileged against disclosure under chapter 49 of NRS.

Sec. 11. **NRS 200.5099 is hereby amended to read as follows:**

200.5099 1. Except as otherwise provided in subsection 6, any person who abuses an older person or a vulnerable person is guilty:

(a) For the first offense, of a gross misdemeanor; or

(b) For any subsequent offense or if the person has been previously convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years

and a maximum term of not more than 6 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.

2. Except as otherwise provided in subsection 7, any person who has assumed responsibility, legally, voluntarily or pursuant to a contract, to care for an older person or a vulnerable person and who:

(a) Neglects the older person or vulnerable person, causing the older person or vulnerable person to suffer physical pain or mental suffering;

(b) Permits or allows the older person or vulnerable person to suffer unjustifiable physical pain or mental suffering; or

(c) Permits or allows the older person or vulnerable person to be placed in a situation where the older person or vulnerable person may suffer physical pain or mental suffering as the result of abuse or neglect,

➥ is guilty of a gross misdemeanor unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse or neglect.

3. Except as otherwise provided in subsection 4, any person who exploits an older person or a vulnerable person shall be punished, if the value of any money, assets and property obtained or used:

(a) Is less than $250, for a misdemeanor by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $2,000, or by both fine and imprisonment;

(b) Is at least $250, but less than $5,000, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than $10,000, or by both fine and imprisonment; or

(c) Is $5,000 or more, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years, or by a fine of not more than $25,000, or by both fine and imprisonment,

➥ unless a more severe penalty is prescribed by law for the act which brought about the exploitation. The monetary value of all of the money, assets and property of the older person or vulnerable person which have been obtained or used, or both, may be combined for the purpose of imposing punishment for an offense charged pursuant to this subsection.

4. If a person exploits an older person or a vulnerable person and the monetary value of any money, assets and property obtained cannot be determined, the person shall be punished for a gross misdemeanor by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $2,000, or by both fine and imprisonment.

5. Any person who isolates an older person or a vulnerable person is guilty:

(a) For the first offense, of a gross misdemeanor; or

(b) For any subsequent offense, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less

than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $5,000.

6. A person who violates any provision of subsection 1, if substantial bodily or mental harm or death results to the older person or vulnerable 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 2 years and a maximum term of not more than 20 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.

7. A person who violates any provision of subsection 2, if substantial bodily or mental harm or death results to the older person or vulnerable person, shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 6 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse or neglect.

8. In addition to any other penalty imposed against a person for a violation of any provision of NRS 200.5091 to 200.50995, inclusive, ***and section 6 of this act,*** the court shall order the person to pay restitution.

9. As used in this section:

(a) "Allow" means to take no action to prevent or stop the abuse or neglect of an older person or a vulnerable person if the person knows or has reason to know that the older person or vulnerable person is being abused or neglected.

(b) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care and custody of an older person or a vulnerable person.

(c) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of an older person or a vulnerable person as evidenced by an observable and substantial impairment of the ability of the older person or vulnerable person to function within his or her normal range of performance or behavior.

Sec. 12. **NRS 178.571 is hereby amended to read as follows:**

178.571 1. Except as otherwise provided in subsection 2, in a case involving any act of domestic violence pursuant to NRS 33.018, a violation of NRS 200.366, 200.368 or 200.373, a battery with intent to commit a sexual assault pursuant to NRS 200.400, a violation of any provision of NRS 200.5091 to 200.5099, inclusive, ***and section 6 of this act,*** a violation of NRS 201.180, 201.210, 201.220 or 201.230 or an attempt or a conspiracy to commit any of these offenses, a witness may designate an attendant who must be allowed to attend the preliminary hearing and the trial during the witness's testimony to provide support.

2. In a case involving an offense in which a minor is a witness, the witness who is a minor may designate an attendant who must be allowed to attend the preliminary hearing and the trial during the witness's testimony to provide support.

3. The attendant may be designated by a party as a witness and, except as otherwise provided in this section, must not be excluded from the

proceedings. If a party designates the attendant as a witness, the attendant must be examined and cross-examined before any other witness testifies.

4. Except as otherwise provided in this subsection and subsection 5, the attendant must not be a reporter or editorial employee of any newspaper, periodical or press association or an employee of any radio or television station. The provisions of this subsection do not apply to an attendant to a witness in a case involving a violation of any provision of NRS 200.5091 to 200.50995, inclusive.

5. The parent, child, brother or sister of the witness may serve as the attendant of the witness whether or not the attendant is a reporter or an editorial employee of any newspaper, periodical or press association or an employee of any radio or television station, but the attendant shall not make notes during the hearing or trial.

6. The court:

(a) Shall, if the witness requests, allow the attendant to sit next to the witness while the witness is testifying; or

(b) May, if the witness requests that the attendant be in another location in the courtroom while the witness is testifying, allow the attendant to be in that location while the witness is testifying.

7. Except as otherwise provided in this subsection, the court shall allow the attendant to have physical contact with the witness while the witness is testifying, if the court determines that such contact is reasonably appropriate or necessary to provide support to the witness. If the attendant attempts to influence or affect in any manner the testimony of the witness during the giving of testimony or at any other time, the court shall exclude that attendant and allow the witness to designate another attendant.

8. A party may move to exclude a particular attendant for good cause, and the court shall hear the motion out of the presence of the jury, if any. If the court grants the motion, the witness may designate another attendant.

Sec. 13. **NRS 449.188 is hereby amended to read as follows:**

449.188 1. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate a facility for intermediate care, facility for skilled nursing, residential facility for groups or home for individual residential care to an applicant or may suspend or revoke the license of a licensee to operate such a facility or home if:

(a) The applicant or licensee has been convicted of:

(1) Murder, voluntary manslaughter or mayhem;

(2) Assault with intent to kill or to commit sexual assault or mayhem;

(3) Sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure, or any other sexually related crime that is punished as a felony;

(4) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor, within the immediately preceding 7 years;

(5) A crime involving domestic violence that is punished as a felony;

(6) A crime involving domestic violence that is punished as a misdemeanor, within the immediately preceding 7 years;

(7) Abuse or neglect of a child or contributory delinquency;

(8) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the immediately preceding 7 years;

(9) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, ***and section 6 of this act*** or a law of any other jurisdiction that prohibits the same or similar conduct;

(10) A violation of any provision of law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;

(11) A violation of any provision of NRS 422.450 to 422.590, inclusive;

(12) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;

(13) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years;

(14) Any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon; or

(15) An attempt or conspiracy to commit any of the offenses listed in this paragraph, within the immediately preceding 7 years; or

(b) The licensee has, in violation of NRS 449.185, continued to employ a person who has been convicted of a crime listed in paragraph (a).

2. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate an agency to provide personal care services in the home or an agency to provide nursing in the home to an applicant or may suspend or revoke the license of a licensee to operate such an agency if the licensee has, in violation of NRS 449.185, continued to employ a person who has been convicted of a crime listed in paragraph (a) of subsection 1.

3. As used in this section:

(a) "Domestic violence" means an act described in NRS 33.018.

(b) "Medicaid" has the meaning ascribed to it in NRS 439B.120.

(c) "Medicare" has the meaning ascribed to it in NRS 439B.130.

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 authorizes the administrator to administer oaths, take testimony and issue subpoenas under certain circumstances.

Amendment adopted.

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

Senate Bill No. 423.

Bill read third time.

Roll call on Senate Bill No. 423:

YEAS—21.

NAYS—None.

Senate Bill No. 423 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 503.

Bill read third time.

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

Senate in recess at 4:51 p.m.

SENATE IN SESSION

At 4:58 p.m.

President Krolicki presiding.

Quorum present.

Remarks by Senator Horsford.

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

Senate Bill No. 503, together with the General Appropriations Act, the school funding bill, and the capital improvement projects bill for the 2011-2013 biennium, constitute the major budget bills for the ongoing operation of state government for the next two fiscal years and reflect the culmination of a considerable amount of work by the Senate Committee on Finance and the Assembly Committee on Ways and Means.

Senate Bill No. 503 represents authority for agencies to collect and expend monies other than State General Funds and includes federal funds, gifts, grants, interagency transfers, service fees and other funds. The total authorized funding recommended for approval by the Legislature for ongoing operations is approximately $11.07 billion for the 2011-2013 biennium, which includes approximately $659 million in Highway Fund appropriations.

The Senate Committee on Finance and the Assembly Committee on Ways and Means met independently and jointly and made numerous changes to the Governor's recommended budget. The money committees worked diligently to mitigate the impact of budget reductions and to ensure essential services provided by the State remain intact.

This bill includes funding for elected officials. It includes funding for the Secretary of State, the State Office of Energy and the Judicial Branch. It includes funding for finance and administration including the Department of Administration. Under the Department of Education, funding for public schools was considered separately in the school funding bill, which is in the Assembly and will come later. That includes funding for basic support, class-size reduction, full-day kindergarten, teacher and administrator training and other programs. We will consider that bill later.

This bill includes the Nevada System of Higher Education. When closing the budgets of the Nevada System of Higher Education (NSHE), the money committees approved revenue from all sources totaling $1.4 billion for the 2011-2013 biennium. Of the total approved revenues, non-General Fund revenues total $456.6 million or 32.6 percent and include student registration fees, non-resident tuition, student application fees, federal revenues and operating capital investment income. Additionally, the money committees supported the NSHE's plan to annually generate an additional $43.3 million in non-General Fund revenues of which $21.3 million could

be generated through a potential 13 percent registration fee surcharge and $22.2 million generated through NSHE identified sources.

The money committees concurred with NSHE and the Governor to not use the traditional, three-year weighted average enrollment projection methodology for the 2011-2013 biennium and used the NSHE's FY 2011 preliminary actual enrollments of 69,023 student full-time equivalents (SFTE) as the basis for projecting FY 2012 and FY 2013 enrollments. Additionally, the money committees concurred with NSHE's and the Governor's recommendation and approved suspending the use of the funding formula for the calculation and distribution of available General Fund appropriations to the NSHE operating budgets.

This bill also includes funding for the commerce and industry area of the budget including the Department of Business and Industry. It includes funding for Human Services within the Director's Office, the Division of Aging and Disability Services, the Division of Health Care Financing and Policy, the Health Division, the State Health Division, the Division of Welfare and Supportive Services, the Division of Mental Health and Developmental Services, and the Division of Child and Family Services, all-inclusive.

This bill also includes funding for the Department of Employment, Training and Rehabilitation and the Department of Public Safety. The Infrastructure Budget includes funding for the Department of Conservation and Natural Resources and the Department of Transportation.

Special purpose agencies include funding for Public Employees' Benefits Program and the Office of Veterans' Services.

Roll call on Senate Bill No. 503:

YEAS—15.

NAYS—Brower, Cegavske, Gustavson, Halseth, Roberson, Settelmeyer—6.

Senate Bill No. 503 having received a constitutional majority, Mr. President declared it passed and immediately transmitted to the Assembly.

Motion carried.

Senate Bill No. 504.

Bill read third time.

Remarks by Senator Horsford.

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

Senate Bill No. 504 provides for the implementation of the 2011 Capital Improvement Program as approved by the money committees. The bill includes funding in the amount of approximately $53.2 million. The program will be funded primarily through the issuance of $27.1 million in general obligation bonds. Senate Bill No. 504 also authorizes the utilization of $2.6 million in federal funds for projects for the Office of the Military and approximately $14.3 million in excess funding reallocated to the 2011 Capital Improvement Program from the State's Capital Improvement Programs approved in 2007 and 2009. Additionally, the bill appropriates $2.4 million in State Highway Funds for projects for the Department of Motor Vehicles and the Department of Administration.

Roll call on Senate Bill No. 504:

YEAS—15.

NAYS—Brower, Cegavske, Gustavson, Halseth, Roberson, Settelmeyer—6.

Senate Bill No. 504 having received a constitutional majority, Mr. President declared it passed and immediately transmitted to the Assembly.

Motion carried.

Senate Bill No. 505.

Bill read third time.

Remarks by Senator Horsford.

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

Senate Bill No. 505, the Pay Bill, establishes the maximum allowable salaries for employees in the unclassified and classified-medical service. The bill requires that the salary of each employee in all Departments of State Government be reduced by 2.5 percent. The bill provides for 48 hours of unpaid furlough leave each year for full-time employees of all branches of State government. The bill holds employees subject to furloughs harmless in the accumulation of retirement service credit for time taken as furlough leave. The bill also provides an exception to the requirement of furlough leave for employees identified by their employing agency as critical in the protection of public health, safety, and welfare, with approval of the appropriate governing body. In lieu of furlough leave, these exempt employees will incur a 2.3 percent reduction in pay on top of what is required by all employees.

The bill makes appropriations from the General Fund and Highway Fund to provide for the difference in funding approved for the departments, commissions and agencies of the State and the actual salaries net of requirements for unpaid furlough leave.

The bill provides for the Department of Health and Human Services and the Department of Corrections to adopt a plan to authorize additional callback pay for unclassified medical positions and pharmacists to perform on-call responsibilities to ensure 24-hour coverage in psychiatric facilities. The bill also authorizes the Gaming Control Board to continue the credential pay plan, which provides up to $5,000 annually for unclassified Gaming employees who possess a current Nevada certified public accountant certificate, a license to practice law, or are in a qualifying position as electronic laboratory engineer and possess a Bachelor of Science or higher degree in engineering, electronic engineering, or computer science.

This act becomes effective on July 1, 2011.

Roll call on Senate Bill No. 505:

YEAS—15.

NAYS—Brower, Cegavske, Gustavson, Halseth, Roberson, Settelmeyer—6.

Senate Bill No. 505 having received a constitutional majority, Mr. President declared it passed and immediately transmitted to the Assembly.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 506—AN ACT relating to local government financial administration; revising provisions regarding the establishment and maintenance of a reserve account for payment of the outstanding bonds of a school district; authorizing certain modifications after a local improvement project has begun and assessments have been levied; requiring the Regional Transportation Commission of Southern Nevada to establish a demonstration project for a toll road in connection with the Boulder City Bypass Project; authorizing the Commission to enter into one or more public-private partnerships to design, construct, develop, finance, operate or maintain the demonstration project; authorizing the issuance of certain bonds or notes of the Commission to finance the Project; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 123.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 11.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 907.

"SUMMARY— ~~[Revises the Nevada Plan for School Finance for funding school districts, charter schools and university schools for profoundly gifted pupils.]~~ **Directs the Legislative Commission to appoint a committee to conduct an interim study concerning the development of a new method for funding public schools**. (BDR 34-304)"

"AN ACT relating to public school finance; ~~[revising the Nevada Plan for School Finance for funding school districts, charter schools and university schools for profoundly gifted pupils to include the establishment of weighted values for certain categories of pupils; requiring the establishment of weighted values for certain smaller school districts and schools; revising the manner by which apportionments are calculated to add the applicable weighted values to the basic support guarantee per pupil; requiring the establishment of a separate basic support guarantee for certain schools that offer a program of distance education; removing the establishment of special education program units;]~~ **directing the Legislative Commission to appoint a committee to conduct an interim study concerning the development of a new method for funding public schools in this State;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Nevada Plan for School Finance provides for the financial support of the school districts, charter schools and university schools for profoundly gifted pupils. The formula in the Nevada Plan is expressed as: State financial aid to school districts equals the difference between school district basic support guarantee and local available funds produced by mandatory taxes minus all the local funds attributable to pupils who reside in the county but attend a charter school or a university school for profoundly gifted pupils. (NRS 387.121) ~~[Section 4 of this bill revises the manner in which the formula is expressed to include a weighted value for certain categories of pupils and for certain smaller school districts and schools and requires those weighted values to be added to the school district basic support guarantee per pupil.~~

~~Section 6 of this bill requires that in addition to the establishment of the basic support guarantee per pupil, the Legislature shall establish a weighted value for each of the following categories of pupils: (1) pupils with disabilities; (2) gifted and talented pupils; (3) pupils enrolled in career and technical education; (4) English language learners; (5) pupils who are eligible to receive free or reduced-priced meals; (6) pupils who are homeless; (7) pupils who are transient; and (8) pupils who are in foster care. In addition, section 6 requires that weighted values be established for certain smaller school districts and schools. Section 6 also requires the Legislature to establish a separate basic support guarantee per pupil for certain schools which enroll pupils full-time and which offer at least 75 percent of the courses through a program of distance education. Section 6 further prescribes that the apportionments to the school districts, charter schools and university schools for profoundly gifted pupils must be determined by adding the basic support guarantee per pupil to the weighted values for the categories of pupils and multiplying that sum by the number of pupils reported in each category, plus any applicable weighted values for certain smaller schools and school districts.~~

~~Section 7 of this bill removes the establishment of special education program units for the funding of the provision of educational programs and services for pupils with disabilities and gifted and talented pupils.~~

~~Section 8 of this bill revises the count of pupils for apportionment purposes to include a disaggregated count of the categories of pupils identified in section 6.~~

~~Sections 2, 14 and 17 of this bill revise the information which must be included in the annual report of a charter school, school district and university school for profoundly gifted pupils to include the costs of providing programs of instruction to the categories of pupils identified in section 6, if the enrollment of the charter school, school district or university school for profoundly gifted pupils includes such pupils.~~

~~Section 19 of this bill requires the Department of Education to establish an advisory group to develop a formula for establishing weighted values and the manner in which the weighted values will be calculated for implementation beginning with the 2013-2014 school year.~~**] Section 22 of this bill directs the Legislative Commission to appoint a committee to conduct an interim study concerning the development of a new method for funding public schools in Nevada.**

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

Section 1. **[**NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive,

unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. ~~[If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.]~~

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in an account with a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of each school quarter, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school quarter if the sponsor provided administrative services during that school quarter. The request must include an itemized list of those costs. Unless a delay is granted pursuant to subsection 9, upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school. If a governing body fails to pay the reimbursement pursuant to this subsection or pursuant to a plan approved by the Superintendent of Public Instruction in accordance with subsection 9, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable,

pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

9. The governing body of a charter school may submit to the Superintendent of Public Instruction a written request to delay a quarterly payment of a reimbursement for the administrative costs that a charter school

owes pursuant to this section. The written request must be in the form prescribed by the Superintendent and must include, without limitation, documentation that a financial hardship exists for the charter school and a plan for the payment of the reimbursement. The Superintendent may approve or deny the request and shall notify the governing body and the sponsor of the charter school of the approval or denial of the request.**] (Deleted by amendment.)**

Sec. 2. **[**NRS 386.600 is hereby amended to read as follows:

386.600 1. On or before November 15 of each year, the governing body of each charter school shall submit to the sponsor of the charter school, the Superintendent of Public Instruction and the Director of the Legislative Counsel Bureau for transmission to the Majority Leader of the Senate and the Speaker of the Assembly a report that includes:

(a) A written description of the progress of the charter school in achieving the mission and goals of the charter school set forth in its application.

(b) For each fund maintained by the charter school, including, without limitation, the general fund of the charter school and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the governing body in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the final budget of the charter school, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

(c) The actual expenditures of the charter school in the fiscal year immediately preceding the report.

(d) The proposed expenditures of the charter school for the current fiscal year.

(e) The salary schedule for licensed employees and nonlicensed teachers in the current school year and a statement of whether salary negotiations for the current school year have been completed. If salary negotiations have not been completed at the time the salary schedule is submitted, the governing body shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations.

(f) The number of employees eligible for health insurance within the charter school for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

(g) The rates for fringe benefits, excluding health insurance, paid by the charter school for its licensed employees in the preceding and current fiscal years.

(h) The amount paid for extra duties, supervision of extracurricular activities and supplemental pay and the number of employees receiving that pay in the preceding and current fiscal years.

~~*(i) If the enrollment of the charter school includes pupils from one or more categories identified in subsection 4 of NRS 387.122, the costs of the charter school to provide programs of instruction for each such category of pupils.*~~

2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each governing body pursuant to subsection 1.

3. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues and expenditures of the charter schools with the apportionment received by those schools from the State Distributive School Account for the preceding year.**] (Deleted by amendment.)**

Sec. 3. **[**NRS 387.047 is hereby amended to read as follows:

387.047 1. Except as otherwise provided in this section, each school district and charter school shall separately account for all money received for the instruction of and the provision of related services to pupils with disabilities, gifted and talented pupils and pupils who receive early intervening services described by NRS 388.520.

2. The separate accounting must include:

(a) The amount of money provided to the school district or charter school for ~~*pupils enrolled in*~~ special education~~,~~ ~~**[**for basic support;**]**~~

(b) Transfers of money from the general fund of the school district or charter school needed to balance the special revenue fund;

(c) The cost of:

(1) Instruction provided by licensed special education teachers and supporting staff;

(2) Related services, including, but not limited to, services provided by psychologists, therapists and health-related personnel;

(3) Transportation of the pupils with disabilities and gifted and talented pupils to and from school;

(4) The direct supervision of educational and supporting programs; and

(5) The supplies and equipment needed for providing special education; and

(d) The amount of money, if any, expended by the school district or charter school for early intervening services provided pursuant to subsection ~~**[**3**]**~~ ~~2~~ of NRS 388.450.

3. Money received from federal sources must be:

(a) Accounted for separately; and

(b) Excluded from the accounting required pursuant to this section.**] (Deleted by amendment.)**

Sec. 4. **[**NRS 387.121 is hereby amended to read as follows:

387.121 The Legislature declares that the proper objective of state financial aid to public education is to ensure each Nevada child a reasonably

equal educational opportunity. Recognizing wide local variations in wealth and costs per pupil, this State should supplement local financial ability to whatever extent necessary in each school district to provide programs of instruction in both compulsory and elective subjects that offer full opportunity for every Nevada child to receive the benefit of the purposes for which public schools are maintained. ~~*The Legislature further declares that the cost of providing instruction to the categories of pupils identified in subsection 4 of NRS 387.122 is dependent upon the educational services that are required to address the specific needs of those pupils.*~~ Therefore, the quintessence of the State's financial obligation for such programs can be expressed in a formula partially on a per pupil basis ~~*, partially on weighted values*~~ and partially on a per program basis as: State financial aid to school districts equals the difference between school district basic support guarantee ~~*plus the weighted values established pursuant to subsection 4 of NRS 387.122 and any applicable weighted values established pursuant to subsection 5 of NRS 387.122,*~~ and local available funds produced by mandatory taxes minus all the local funds attributable to pupils who reside in the county but attend a charter school or a university school for profoundly gifted pupils. This formula is designated the Nevada Plan.**] (Deleted by amendment.)**

Sec. 5. **[**NRS 387.1211 is hereby amended to read as follows:

387.1211 As used in NRS 387.121 to 387.126, inclusive:

1. "Average daily attendance" means the total number of pupils attending a particular school each day during a period of reporting divided by the number of days school is in session during that period.

2. "Enrollment" means the count of pupils enrolled in and scheduled to attend programs of instruction of a school district, charter school or university school for profoundly gifted pupils at a specified time during the school year.

3. ~~**[**"Special education program unit" means an organized unit of special education and related services which includes full-time services of persons licensed by the Superintendent of Public Instruction or other appropriate licensing body, providing a program of instruction in accordance with minimum standards prescribed by the State Board.**]** *"Weighted value" means the dollar amount established by law for the costs, above basic support, of providing programs of instruction for each category of pupils identified in subsection 4 of NRS 387.122 and for certain smaller school districts or smaller schools as described in subsection 5 of NRS 387.122.]*~~ **(Deleted by amendment.)**

Sec. 6. **[**NRS 387.122 is hereby amended to read as follows:

387.122 ~~*1.*~~ For making the apportionments of the State Distributive School Account in the State General Fund required by the provisions of this title, the basic support guarantee per pupil for each school district and the ~~**[**basic support guarantee for each special education program unit maintained and operated during at least 9 months of a school year**]**~~ *weighted value for*

~~*each category of pupils identified in subsection 4 and the weighted values pursuant to subsection 5*~~ are established by law for each school year.

~~*2. The Legislature shall establish a separate basic support guarantee per pupil by law for each school year for pupils who are enrolled full-time in a school which offers at least 75 percent of its courses through a program of distance education pursuant to NRS 388.820 to 388.874, inclusive, and which does not require the pupils enrolled in the school to be physically in attendance at the school to meet with a teacher at least once per week.*~~

~~*3. The apportionment to a school district must be determined by adding the basic support guarantee per pupil to the weighted value for each category of pupils identified in subsection 4 that are enrolled in the school district and multiplying that sum by the number of pupils reported in each such category, plus any applicable weighted values established pursuant to subsection 5. The apportionment to a charter school or university school for profoundly gifted pupils must be determined by adding the basic support guarantee per pupil to the weighted value for each category of pupils identified in subsection 4 that are enrolled in the charter school or university school and multiplying that sum by the number of pupils reported in each such category. A pupil must not be reported in more than one category regardless of whether the status of the pupil qualifies him or her for more than one category.*~~

~~*4. A weighted value must be established by law for each school year for each of the following categories:*~~

~~*(a) Pupils with disabilities;*~~

~~*(b) Gifted and talented pupils;*~~

~~*(c) Pupils enrolled in career and technical education;*~~

~~*(d) English language learners;*~~

~~*(e) Pupils who are eligible to receive free or reduced-priced meals;*~~

~~*(f) Pupils who are homeless;*~~

~~*(g) Pupils who are transient; and*~~

~~*(h) Pupils in foster care.*~~

~~*5. In addition to the weighted values established pursuant to subsection 4, a weighted value must be established by law for each school year for:*~~

~~*(a) A school district with an enrollment of 10,000 or fewer pupils.*~~

~~*(b) A school with an enrollment of 200 or fewer pupils if the school is part of a school district with an enrollment of more than 10,000 pupils.*~~

~~*6. A school district, charter school or university school for profoundly gifted pupils shall designate the category in which a pupil is reported if the status of the pupil qualifies him or her for more than one category.]*~~ **(Deleted by amendment.)**

Sec. 7. **[**NRS 387.1221 is hereby amended to read as follows:

387.1221 1. ~~[The basic support guarantee for any special education program unit maintained and operated during a period of less than 9 school months is in the same proportion to the amount established by law for that~~

~~school year as the period during which the program unit actually was maintained and operated is to 9 school months.~~

~~2. Any unused allocations for special education program units may be reallocated to other school districts, charter schools or university schools for profoundly gifted pupils by the Superintendent of Public Instruction. In such a reallocation, first priority must be given to special education programs with statewide implications, and second priority must be given to special education programs maintained and operated within counties whose allocation is less than or equal to the amount provided by law. If there are more unused allocations than necessary to cover programs of first and second priority but not enough to cover all remaining special education programs eligible for payment from reallocations, then payment for the remaining programs must be prorated. If there are more unused allocations than necessary to cover programs of first priority but not enough to cover all programs of second priority, then payment for programs of second priority must be prorated. If unused allocations are not enough to cover all programs of first priority, then payment for programs of first priority must be prorated.~~

~~3.~~**]** A school district, a charter school or a university school for profoundly gifted pupils may, after receiving the approval of the Superintendent of Public Instruction, contract with any person, state agency or legal entity to provide ~~[~~a~~]~~ special education ~~[~~program unit~~]~~ for pupils of the district pursuant to NRS 388.440 to 388.520, inclusive.

~~[~~4.~~]~~ *2.* A school district in a county whose population is less than 400,000, a charter school or a university school for profoundly gifted pupils that receives an ~~[~~allocation for special education program units~~]~~ *apportionment which includes a weighted value for the provision of special education to pupils with disabilities* may use not more than 15 percent of its ~~[~~allocation~~]~~ *apportionment which represents that category of pupils* to provide early intervening services.**] (Deleted by amendment.)**

Sec. 8. **[**NRS 387.123 is hereby amended to read as follows:

387.123 1. The count of pupils for apportionment purposes includes all pupils who are enrolled in programs of instruction of the school district, including, without limitation, a program of distance education provided by the school district, pupils who reside in the county in which the school district is located and are enrolled in any charter school, including, without limitation, a program of distance education provided by a charter school, and pupils who are enrolled in a university school for profoundly gifted pupils located in the county, for:

(a) Pupils in the kindergarten department.

(b) Pupils in grades 1 to 12, inclusive~~[.]~~ *, reported in the aggregate and disaggregated by each of the following categories:*

(1) Pupils with disabilities;

(2) Gifted and talented pupils;

(3) Pupils enrolled in career and technical education;

(4) English language learners;

~~*(5) Pupils who are eligible to receive free or reduced-priced meals;*~~
~~*(6) Pupils who are homeless;*~~
~~*(7) Pupils who are transient; and*~~
~~*(8) Pupils in foster care.*~~

(c) Pupils not included under paragraph (a) or (b) who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive.

(d) Pupils who reside in the county and are enrolled part-time in a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.

(e) Children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570.

(f) Pupils who are enrolled in classes pursuant to subsection 4 of NRS 386.560 and pupils who are enrolled in classes pursuant to subsection 5 of NRS 386.580.

(g) Pupils who are enrolled in classes pursuant to subsection 3 of NRS 392.070.

(h) Pupils who are enrolled in classes and taking courses necessary to receive a high school diploma, excluding those pupils who are included in paragraphs (d), (f) and (g).

2. The State Board shall establish uniform regulations for counting enrollment and calculating the average daily attendance of pupils. In establishing such regulations for the public schools, the State Board:

(a) Shall divide the school year into 10 school months, each containing 20 or fewer school days, or its equivalent for those public schools operating under an alternative schedule authorized pursuant to NRS 388.090.

(b) May divide the pupils in grades 1 to 12, inclusive, into categories composed respectively of those enrolled in elementary schools and those enrolled in secondary schools.

(c) Shall prohibit the counting of any pupil specified in subsection 1 more than once.

3. Except as otherwise provided in subsection 4 and NRS 388.700, the State Board shall establish by regulation the maximum pupil-teacher ratio in each grade, and for each subject matter wherever different subjects are taught in separate classes, for each school district of this State which is consistent with:

(a) The maintenance of an acceptable standard of instruction;

(b) The conditions prevailing in the school district with respect to the number and distribution of pupils in each grade; and

(c) Methods of instruction used, which may include educational television, team teaching or new teaching systems or techniques.

➥ If the Superintendent of Public Instruction finds that any school district is maintaining one or more classes whose pupil-teacher ratio exceeds the applicable maximum, and unless the Superintendent finds that the board of

trustees of the school district has made every reasonable effort in good faith to comply with the applicable standard, the Superintendent shall, with the approval of the State Board, reduce the count of pupils for apportionment purposes by the percentage which the number of pupils attending those classes is of the total number of pupils in the district, and the State Board may direct the Superintendent to withhold the quarterly apportionment entirely.

4. The provisions of subsection 3 do not apply to a charter school, a university school for profoundly gifted pupils or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.**]** **(Deleted by amendment.)**

Sec. 9. **[**NRS 387.1233 is hereby amended to read as follows:

387.1233 1. Except as otherwise provided in ~~[subsection 2,]~~ ~~*this section,*~~ basic support of each school district must be computed by~~[~~:

~~(a) Multiplying]~~ ~~*multiplying*~~ the basic support guarantee per pupil established for that school district for that school year ~~*pursuant to subsection 1 of NRS 387.122*~~ by the sum of:

~~[(1)]~~ ~~*(a)*~~ Six-tenths the count of pupils enrolled in the kindergarten department on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school on the last day of the first school month of the school district for the school year.

~~[(2)]~~ ~~*(b)*~~ The count of pupils enrolled in grades 1 to 12, inclusive, on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school on the last day of the first school month of the school district for the school year and the count of pupils who are enrolled in a university school for profoundly gifted pupils located in the county.

~~[(3) The]~~ ~~*(c) Except for a program of distance education for which a separate basic support guarantee per pupil is established pursuant to subsection 2 of NRS 387.122, the*~~ count of pupils not included under ~~[subparagraph (1) or (2)]~~ ~~*paragraph (a) or (b)*~~ who are enrolled full-time in a program of distance education provided by that school district or a charter school located within that school district on the last day of the first school month of the school district for the school year.

~~[(4)]~~ ~~*(d)*~~ The count of pupils who reside in the county and are enrolled:

~~[(I)]~~ ~~*(1)*~~ In a public school of the school district and are concurrently enrolled part-time in a program of distance education provided by another school district or a charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to ~~[subparagraph (2).~~

~~(II)]~~ ~~*paragraph (b).*~~

~~*(2)*~~ In a charter school and are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to ~~[~~subparagraph (2).

~~(5)~~] *paragraph (b).*

~~*(e)*~~ The count of pupils not included under ~~[~~subparagraph (1), (2), (3) or (4),~~]~~ *paragraph (a), (b), (c) or (d),* who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive, on the last day of the first school month of the school district for the school year, excluding the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.490 on that day.

~~[(6)]~~ ~~*(f)*~~ Six-tenths the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.490 on the last day of the first school month of the school district for the school year.

~~[(7)]~~ ~~*(g)*~~ The count of children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570 on the last day of the first school month of the school district for the school year.

~~[(8)]~~ ~~*(h)*~~ The count of pupils who are enrolled in classes for at least one semester pursuant to subsection 4 of NRS 386.560, subsection 5 of NRS 386.580 or subsection 3 of NRS 392.070, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to ~~[~~subparagraph (2).

~~(b) Multiplying the number of special education program units maintained and operated by the amount per program established for that school year.~~

~~(c) Adding the amounts computed in paragraphs (a) and (b).~~] *paragraph (b).*

2. ~~*If a school enrolls pupils full-time and offers at least 75 percent of its courses through a program of distance education and the school does not require the pupils to be physically in attendance at the school to meet with a teacher at least once per week, the basic support for that school must be computed by multiplying the basic support guarantee per pupil established pursuant to subsection 2 of NRS 387.122 by the count of pupils enrolled in the program of distance education.*~~

~~*3.*~~ If the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is less than or equal to 95 percent of the enrollment of pupils in the same school district or charter school on the

last day of the first school month of the school district for the immediately preceding school year, the largest number from among the immediately preceding 2 school years must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

~~[3.]~~ *~~4.~~* If the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is more than 95 percent of the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for the immediately preceding school year, the larger enrollment number from the current year or the immediately preceding school year must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

~~[4.]~~ *~~5.~~* Pupils who are excused from attendance at examinations or have completed their work in accordance with the rules of the board of trustees must be credited with attendance during that period.

~~[5.]~~ *~~6.~~* Pupils who are incarcerated in a facility or institution operated by the Department of Corrections must not be counted for the purpose of computing basic support pursuant to this section. The average daily attendance for such pupils must be reported to the Department of Education.

~~[6.]~~ *~~7.~~* Pupils who are enrolled in courses which are approved by the Department as meeting the requirements for an adult to earn a high school diploma must not be counted for the purpose of computing basic support pursuant to this section.**] (Deleted by amendment.)**

Sec. 10. **[**NRS 387.124 is hereby amended to read as follows:

387.124 Except as otherwise provided in this section and NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts, charter schools and university schools for profoundly gifted pupils in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. The apportionment to a school district, computed on a yearly basis, equals the difference between the basic support *~~per pupil established pursuant to NRS 387.122, including the basic support per pupil established pursuant to subsection 2 of NRS 387.122, if applicable, plus the weighted values established pursuant to subsections 4 and 5 of NRS 387.122 applicable for that school district,~~* and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who reside in the county but attend a charter school, all the funds attributable to pupils who reside in the county and are enrolled full-time or part-time in a program of distance education provided by another school district or a charter school and all the funds attributable to pupils who are enrolled in a university school for profoundly gifted pupils located in the

county. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support.

2. Except as otherwise provided in subsection 3, the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides ~~*or, if applicable, the basic support per pupil established pursuant to subsection 2 of NRS 387.122, plus*~~ ~~*the weighted values established pursuant to subsection 4 of NRS 387.122 applicable for that charter school and*~~ plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.

3. The apportionment to a charter school that is sponsored by the State Board or by a college or university within the Nevada System of Higher Education, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides ~~*or, if applicable, the basic support per pupil established pursuant to subsection 2 of NRS 387.122, plus the weighted values established pursuant to subsection 4 of NRS 387.122 applicable for that charter school and*~~ plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus all funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school.

4. In addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part-time in the program. The amount of the apportionment must be equal to the percentage of the total time services are provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to ~~[~~subparagraph (2) of paragraph (a)~~]~~ ~~*paragraph (b)*~~ of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A

charter school may receive all four apportionments in advance in its first year of operation.

6. The apportionment to a university school for profoundly gifted pupils, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the university school is located ~~*or, if applicable, the basic support per pupil established pursuant to subsection 2 of NRS 387.122, plus the weighted values established pursuant to subsection 4 of NRS 387.122 applicable for that university school and*~~ plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the university school is located. If the apportionment per pupil to a university school for profoundly gifted pupils is more than the amount to be apportioned to the school district in which the university school is located, the school district shall pay the difference directly to the university school. The governing body of a university school for profoundly gifted pupils may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the university school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A university school for profoundly gifted pupils may receive all four apportionments in advance in its first year of operation.

7. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of reimbursements for all school districts in this State that participate in the Program.

8. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, the State Controller may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.**] (Deleted by amendment.)**

Sec. 11. **[**NRS 387.1243 is hereby amended to read as follows:

387.1243 1. The first apportionment based on an estimated number of pupils ~~[and special education program units]~~ and succeeding apportionments are subject to adjustment from time to time as the need therefor may appear.

2. The apportionments to a school district may be adjusted during a fiscal year by the Department of Education, upon approval by the State Board of Examiners and the Interim Finance Committee, if the Department of

Taxation and the county assessor in the county in which the school district is located certify to the Department of Education that the school district will not receive the tax levied pursuant to subsection 1 of NRS 387.195 on property of the Federal Government located within the county if:

(a) The leasehold interest, possessory interest, beneficial interest or beneficial use of the property is subject to taxation pursuant to NRS 361.157 and 361.159 and one or more lessees or users of the property are delinquent in paying the tax; and

(b) The total amount of tax owed but not paid for the fiscal year by any such lessees and users is at least 5 percent of the proceeds that the school district would have received from the tax levied pursuant to subsection 1 of NRS 387.195.

➥ If a lessee or user pays the tax owed after the school district's apportionment has been increased in accordance with the provisions of this subsection to compensate for the tax owed, the school district shall repay to the State Distributive School Account in the State General Fund an amount equal to the tax received from the lessee or user for the year in which the school district received an increased apportionment, not to exceed the increase in apportionments made to the school district pursuant to this subsection.

3. On or before August 1 of each year, the board of trustees of a school district shall provide to the Department, in a format prescribed by the Department, the count of pupils calculated pursuant to ~~[subparagraph (8) of paragraph (a)]~~ *paragraph (h)* of subsection 1 of NRS 387.1233 who completed at least one semester during the immediately preceding school year. The count of pupils submitted to the Department must be included in the final adjustment computed pursuant to subsection 4.

4. A final adjustment for each school district, charter school and university school for profoundly gifted pupils must be computed as soon as practicable following the close of the school year, but not later than August 25. The final computation must be based upon the actual counts of pupils required to be made for the computation of basic support and the limits upon the support of special education programs, except that for any year when the total enrollment of pupils and children in a school district, a charter school located within the school district or a university school for profoundly gifted pupils located within the school district described in paragraphs (a), (b), (c) and (e) of subsection 1 of NRS 387.123 is greater on the last day of any school month of the school district after the second school month of the school district and the increase in enrollment shows at least:

(a) A 3-percent gain, basic support as computed from first-month enrollment for the school district, charter school or university school for profoundly gifted pupils must be increased by 2 percent.

(b) A 6-percent gain, basic support as computed from first-month enrollment for the school district, charter school or university school for profoundly gifted pupils must be increased by an additional 2 percent.

5. If the final computation of apportionment for any school district, charter school or university school for profoundly gifted pupils exceeds the actual amount paid to the school district, charter school or university school for profoundly gifted pupils during the school year, the additional amount due must be paid before September 1. If the final computation of apportionment for any school district, charter school or university school for profoundly gifted pupils is less than the actual amount paid to the school district, charter school or university school for profoundly gifted pupils during the school year, the difference must be repaid to the State Distributive School Account in the State General Fund by the school district, charter school or university school for profoundly gifted pupils before September 25.**] (Deleted by amendment.)**

Sec. 12. **[**NRS 387.206 is hereby amended to read as follows:

387.206 1. On or before July 1 of each year, the Department, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, shall determine the combined minimum amount of money required to be expended during that fiscal year for textbooks, instructional supplies, instructional software and instructional hardware by all school districts, charter schools and university schools for profoundly gifted pupils. The amount must be determined by increasing the amount that was established for the Fiscal Year 2004-2005 by the percentage of the change in enrollment between Fiscal Year 2004-2005 and the fiscal year for which the amount is being established, plus any inflationary adjustment approved by the Legislature after Fiscal Year 2004-2005.

2. The Department, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, shall develop or revise, as applicable, a formula for determining the minimum amount of money that each school district, charter school and university school for profoundly gifted pupils is required to expend each fiscal year for textbooks, instructional supplies, instructional software and instructional hardware. The sum of all of the minimum amounts determined pursuant to this subsection must be equal to the combined minimum amount determined pursuant to subsection 1. The formula must be used only to develop expenditure requirements and must not be used to alter the distribution of money for basic support ~~*and the weighted values established pursuant to NRS 387.122*~~ to school districts, charter schools or university schools for profoundly gifted pupils.

3. Upon approval of the formula pursuant to subsection 2, the Department shall provide written notice to each school district, charter school and university school for profoundly gifted pupils within the first 30 days of each fiscal year that sets forth the required minimum combined amount of money that the school district, charter school and university school for profoundly gifted pupils must expend for textbooks, instructional supplies, instructional software and instructional hardware for that fiscal year. If a

school district, charter school or university school for profoundly gifted pupils is granted a waiver pursuant to NRS 387.2065, the Department shall provide written notice to the school district, charter school or university school within 30 days after the Interim Finance Committee grants the waiver setting forth the revised amount of money that the school district, charter school or university school must expend for textbooks, instructional supplies, instructional software and instructional hardware for the fiscal year.

4. On or before January 1 of each year, the Department shall determine whether each school district, charter school and university school for profoundly gifted pupils has expended, during the immediately preceding fiscal year, the required minimum amount of money set forth in the notice or the revised notice, as applicable, provided pursuant to subsection 3. In making this determination, the Department shall use the report submitted by:

(a) The school district pursuant to NRS 387.303.

(b) The charter school pursuant to NRS 386.600.

(c) The university school for profoundly gifted pupils pursuant to NRS 392A.073.

5. Except as otherwise provided in subsection 6, if the Department determines that a school district, charter school or university school for profoundly gifted pupils, as applicable, has not expended the required minimum amount of money set forth in the notice or the revised notice, as applicable, provided pursuant to subsection 3, a reduction must be made from the basic support ~~*and weighted values*~~ allocation otherwise payable to that school district, charter school or university school for profoundly gifted pupils, as applicable, in an amount that is equal to the difference between the actual combined expenditure for textbooks, instructional supplies, instructional software and instructional hardware and the minimum required combined expenditure set forth in the notice or the revised notice, as applicable, provided pursuant to subsection 3. A reduction in the amount of the basic support ~~*and weighted values*~~ allocation pursuant to this subsection:

(a) Does not reduce the amount that the school district, charter school or university school for profoundly gifted pupils, as applicable, is required to expend on textbooks, instructional supplies, instructional software and instructional hardware in the current fiscal year; and

(b) Must not exceed the amount of basic support ~~*and the amount for the weighted values*~~ that was provided to the school district, charter school or university school for profoundly gifted pupils, as applicable, for the fiscal year in which the minimum expenditure amount was not satisfied.

6. If the actual enrollment of pupils in a school district, charter school or university school for profoundly gifted pupils is less than the enrollment included in the projections used in the biennial budget of the school district submitted pursuant to NRS 387.303, the budget of the charter school submitted pursuant to NRS 386.600 or the report of the university school for profoundly gifted pupils submitted pursuant to NRS 392A.073, as applicable, the required expenditure for textbooks, instructional supplies, instructional

software and instructional hardware pursuant to this section must be reduced proportionately.**] (Deleted by amendment.)**

Sec. 13. **[**NRS 387.2065 is hereby amended to read as follows:

387.2065 1. The board of trustees of a school district, the governing body of a charter school or the governing body of a university school for profoundly gifted pupils that experiences an economic hardship may submit a written request to the Department on a form prescribed by the Department for a waiver of all or a portion of the amount of money the school district, charter school or university school is required to expend for textbooks, instructional supplies, instructional software and instructional hardware pursuant to NRS 387.206 for the fiscal year.

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

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

4. Upon receipt of a written request from the State Board of Examiners pursuant to subsection 3, the Interim Finance Committee shall consider the request and determine whether an economic hardship exists for the school district, charter school or university school for profoundly gifted pupils. If the Interim Finance Committee determines that an economic hardship exists, it shall determine whether the hardship justifies a waiver of all or a portion of the expenditure requirements established for that school district, charter school or university school for the fiscal year pursuant to NRS 387.206. 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 the:

(a) Grounds for its determination;

(b) Amount of the waiver; and

(c) Period for which the waiver is effective.

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

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

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

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

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

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

7. If a school district, charter school or university school for profoundly gifted pupils is granted a waiver pursuant to this section, the money that would have otherwise been expended by the school district, charter school or university school for profoundly gifted pupils to meet the requirements of NRS 387.206 for the fiscal year:

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

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

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

8. For purposes of this section, an economic hardship exists for a school district, charter school or university school for profoundly gifted pupils if:

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

(b) The school district, charter school or university school for profoundly gifted pupils incurs unforeseen expenses, including, without limitation, expenses related to a natural disaster.**] (Deleted by amendment.)**

Sec. 14. **[**NRS 387.303 is hereby amended to read as follows:

387.303 1. Not later than November 10 of each year, the board of trustees of each school district shall submit to the Superintendent of Public Instruction and the Department of Taxation a report which includes the following information:

(a) For each fund within the school district, including, without limitation, the school district's general fund and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the school district in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the school district's final budget, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

(b) The school district's actual expenditures in the fiscal year immediately preceding the report.

(c) The school district's proposed expenditures for the current fiscal year.

(d) The schedule of salaries for licensed employees in the current school year and a statement of whether the negotiations regarding salaries for the current school year have been completed. If the negotiations have not been completed at the time the schedule of salaries is submitted, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations or the determination of an arbitrator concerning the negotiations that includes the schedule of salaries agreed to or required by the arbitrator.

(e) The number of employees who received an increase in salary pursuant to subsection 2, 3 or 4 of NRS 391.160 for the current and preceding fiscal years. If the board of trustees is required to pay an increase in salary retroactively pursuant to subsection 2 of NRS 391.160, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction not later than February 15 of the year in which the retroactive payment was made that includes the number of teachers to whom an increase in salary was paid retroactively.

(f) The number of employees eligible for health insurance within the school district for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

(g) The rates for fringe benefits, excluding health insurance, paid by the school district for its licensed employees in the preceding and current fiscal years.

(h) The amount paid for extra duties, supervision of extracurricular activities and supplemental pay and the number of employees receiving that pay in the preceding and current fiscal years.

(i) The expenditures from the account created pursuant to subsection 4 of NRS 179.1187. The report must indicate the total amount received by the district in the preceding fiscal year and the specific amount spent on books and computer hardware and software for each grade level in the district.

~~*(j) If the enrollment of the school district includes pupils from one or more categories identified in subsection 4 of NRS 387.122, the costs of the school district to provide programs of instruction for each such category of pupils.*~~

2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each school district pursuant to subsection 1.

3. In preparing the agency biennial budget request for the State Distributive School Account for submission to the Department of Administration, the Superintendent of Public Instruction:

(a) Shall compile the information from the most recent compilation of reports submitted pursuant to subsection 2;

(b) May increase the line items of expenditures or revenues based on merit salary increases and cost of living adjustments or inflation, as deemed credible and reliable based upon published indexes and research relevant to the specific line item of expenditure or revenue;

(c) May adjust expenditures and revenues pursuant to paragraph (b) for any year remaining before the biennium for which the budget is being prepared and for the 2 years of the biennium covered by the biennial budget request to project the cost of expenditures or the receipt of revenues for the specific line items;

(d) May consider the cost of enhancements to existing programs or the projected cost of proposed new educational programs, regardless of whether those enhancements or new programs are included in the per pupil basic support guarantee ~~*or the weighted values established for the categories of pupils identified in NRS 387.122*~~ for inclusion in the biennial budget request to the Department of Administration; and

(e) Shall obtain approval from the State Board for any inflationary increase, enhancement to an existing program or addition of a new program included in the agency biennial budget request.

4. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues of the school districts with the apportionment received by those districts from the State Distributive School Account for the preceding year.

5. The request prepared pursuant to subsection 3 must:

(a) Be presented by the Superintendent of Public Instruction to such standing committees of the Legislature as requested by the standing committees for the purposes of developing educational programs and providing appropriations for those programs; and

(b) Provide for a direct comparison of appropriations to the proposed budget of the Governor submitted pursuant to subsection 4 of NRS 353.230.**]** **(Deleted by amendment.)**

Sec. 15. **[**NRS 388.450 is hereby amended to read as follows:

388.450 1. ~~[The Legislature declares that the basic support guarantee for each special education program unit established by law for each school year establishes financial resources sufficient to ensure a reasonably equal educational opportunity to pupils with disabilities and gifted and talented pupils residing in Nevada.~~

~~2.~~**]** Subject to the provisions of NRS 388.440 to 388.520, inclusive, the board of trustees of each school district shall make such special provisions as may be necessary for the education of pupils with disabilities and gifted and talented pupils.

~~[3.]~~ *2.* The board of trustees of a school district in a county whose population is less than 400,000 may provide early intervening services. Such services must be provided in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto.

~~[4.]~~ *3.* The board of trustees of a school district shall establish uniform criteria governing eligibility for instruction under the special education programs provided for by NRS 388.440 to 388.520, inclusive. The criteria must prohibit the placement of a pupil in a program for pupils with disabilities solely because the pupil is a disciplinary problem in school. The criteria are subject to such standards as may be prescribed by the State Board.**]** **(Deleted by amendment.)**

Sec. 16. **[**NRS 391.273 is hereby amended to read as follows:

391.273 1. Except as otherwise provided in subsections 4 and 10 and except for persons who are supervised pursuant to NRS 391.096, the unlicensed personnel of a school district must be directly supervised by licensed personnel in all duties which are instructional in nature. To the extent practicable, the direct supervision must be such that the unlicensed personnel are in the immediate location of the licensed personnel and are readily available during such times when supervision is required.

2. Unlicensed personnel who are exempted pursuant to subsection 4 must be under administrative supervision when performing duties which are instructional in nature.

3. Unlicensed personnel may temporarily perform duties under administrative supervision which are not primarily instructional in nature.

4. Except as otherwise provided in subsection 5, upon application by a superintendent of schools, the Superintendent of Public Instruction may grant

an exemption from the provisions of subsection 1. The Superintendent shall not grant an exemption unless:

(a) The duties are within the employee's special expertise or training;

(b) The duties relate to the humanities or an elective course of study, or are supplemental to the basic curriculum of a school;

(c) The performance of the duties does not result in the replacement of a licensed employee or prevent the employment of a licensed person willing to perform those duties;

(d) The secondary or combined school in which the duties will be performed has less than 100 pupils enrolled and is at least 30 miles from a school in which the duties are performed by licensed personnel; and

(e) The unlicensed employee submits his or her fingerprints for an investigation pursuant to NRS 391.033.

5. The exemption authorized by subsection 4 does not apply to a paraprofessional if the provisions of 20 U.S.C. § 6319 and the regulations adopted pursuant thereto require the paraprofessional to be directly supervised by a licensed teacher.

6. The Superintendent of Public Instruction shall file a record of all exempt personnel with the clerk of the board of trustees of each local school district, and advise the clerk of any changes therein. The record must contain:

(a) The name of the exempt employee;

(b) The specific instructional duties the exempt employee may perform;

(c) Any terms or conditions of the exemption deemed appropriate by the Superintendent of Public Instruction; and

(d) The date the exemption expires or a statement that the exemption is valid as long as the employee remains in the same position at the same school.

7. The Superintendent of Public Instruction may adopt regulations prescribing the procedure to apply for an exemption pursuant to this section and the criteria for the granting of such exemptions.

8. Except in an emergency, it is unlawful for the board of trustees of a school district to allow a person employed as a teacher's aide to serve as a teacher unless the person is a legally qualified teacher licensed by the Superintendent of Public Instruction. As used in this subsection, "emergency" means an unforeseen circumstance which requires immediate action and includes the fact that a licensed teacher or substitute teacher is not immediately available.

9. If the Superintendent of Public Instruction determines that the board of trustees of a school district has violated the provisions of subsection 8, the Superintendent shall take such actions as are necessary to reduce the amount of money received by the district pursuant to NRS 387.124 by an amount equal to the product when the following numbers are multiplied together:

(a) The number of days on which the violation occurred;

(b) The number of pupils in the classroom taught by the teacher's aide; and

(c) The number of dollars of basic support ~~*and weighted values*~~ apportioned to the ~~*school*~~ district per pupil per day pursuant to NRS 387.1233.

10. The provisions of this section do not apply to unlicensed personnel who are employed by the governing body of a charter school, unless a paraprofessional employed by the governing body is required to be directly supervised by a licensed teacher pursuant to the provisions of 20 U.S.C. § 6319 and the regulations adopted pursuant thereto.**]** **(Deleted by amendment.)**

Sec. 17. **[**NRS 392A.073 is hereby amended to read as follows:

392A.073 1. The governing body of a university school for profoundly gifted pupils shall submit to the Department in a format prescribed by the Department such information as requested by the Superintendent of Public Instruction for purposes of accountability reporting for the university school.

2. The governing body of a university school for profoundly gifted pupils shall, on or before November 15 of each year, submit to the Department in a format prescribed by the Department the following information:

(a) The actual expenditures of the university school for profoundly gifted pupils in the fiscal year immediately preceding the report; ~~**[**and**]**~~

(b) The proposed expenditures of the university school for profoundly gifted pupils for the current fiscal year~~**[**.**]**~~ ~~*; and*~~

~~*(c) If the enrollment of the university school for profoundly gifted pupils includes pupils from one or more categories identified in subsection 4 of NRS 387.122, the costs of the university school to provide programs of instruction for each such category of pupils.]*~~ **(Deleted by amendment.)**

Sec. 18. **[**NRS 392A.083 is hereby amended to read as follows:

392A.083 1. Each pupil who is enrolled in a university school for profoundly gifted pupils, including, without limitation, a pupil who is enrolled in a program of special education in a university school for profoundly gifted pupils, must be included in the count of pupils in the school district in which the school is located for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory school attendance pursuant to NRS 392.070.

2. A university school for profoundly gifted pupils is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive.

3. ~~**[**If a university school for profoundly gifted pupils receives money for special education program units directly from this State, the amount of money for special education that the school district pays to the university school for profoundly gifted pupils may be reduced proportionately by the amount of money the university school received from this State for that purpose.~~

~~4.~~] All money received by a university school for profoundly gifted pupils from this State or from the board of trustees of a school district must be deposited in an account with a bank, credit union or other financial institution in this State.

[~~5.~~] *4.* The governing body of a university school for profoundly gifted pupils may negotiate with the board of trustees of the school district in which the school is located or the State Board for additional money to pay for services that the governing body wishes to offer.

[~~6.~~] *5.* To determine the amount of money for distribution to a university school for profoundly gifted pupils in its first year of operation in which state funding is provided, the count of pupils who are enrolled in the university school must initially be determined 30 days before the beginning of the school year of the school district in which the university school is located, based upon the number of pupils whose applications for enrollment have been approved by the university school. The count of pupils who are enrolled in a university school for profoundly gifted pupils must be revised on the last day of the first school month of the school district in which the university school is located for the school year, based upon the actual number of pupils who are enrolled in the university school.

[~~7.~~] *6.* Pursuant to subsection 6 of NRS 387.124, the governing body of a university school for profoundly gifted pupils may request that the apportionments made to the university school in its first year of operation be paid to the university school 30 days before the apportionments are otherwise required to be made.

[~~8.~~] *7.* If a university school for profoundly gifted pupils ceases to operate pursuant to this chapter during a school year, the remaining apportionments that would have been made to the university school pursuant to NRS 387.124 for that school year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the university school reside.

[~~9.~~] *8.* If the governing body of a university school for profoundly gifted pupils uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the university school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.**] (Deleted by amendment.)**

Sec. 19. **[**1. The Department of Education shall establish an advisory group to:

(a) For implementation beginning with the 2013-2014 school year, develop a formula for establishing a weighted value for each category of pupils identified by subsection 4 of NRS 387.122 and additional weighted values for certain smaller schools and school districts pursuant to subsection 5 of NRS 387.122, including, without limitation, the manner in which the weighted values will be calculated.

(b) Determine whether any additional legislation is necessary to carry out the formula adopted by the advisory group.

2. The advisory group must consist of:

(a) Representatives of the Fiscal Analysis Division of the Legislative Counsel Bureau;

(b) Representatives of the Budget Division of the Department of Administration;

(c) The financial officers of school districts;

(d) Persons with knowledge and experience with weighted per pupil formulas or categorical funding for public schools in other states; and

(e) Any other representatives the Department determines are necessary.

3. On or before December 31, 2012, the Department of Education shall submit a written report of the findings of the advisory group and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.**] (Deleted by amendment.)**

Sec. 20. **[**1. This section and section 19 of this act become effective on July 1, 2011.

2. Sections 1 to 18, inclusive, of this act become effective on January 1, 2013.**] (Deleted by amendment.)**

Sec. 21. **The Legislature hereby finds and declares that:**

1. In 1967, the Legislature, as a response to circumstances prevailing at the time and to allow this State to fulfill its responsibility to appropriately fund public schools, adopted a new method, known as the Nevada Plan, for funding public schools;

2. By considering and adopting the Nevada Plan, the Legislature recognized that changing circumstances and changes in the student population in this State would necessitate changes to the Nevada Plan;

3. In 2011, this State and its public schools face remarkably different conditions than in 1967;

4. Nevada is home to both one of the largest school districts in the nation and one of the smallest school districts in the nation;

5. The educational needs and demographic characteristics of students in the public schools vary widely and disparate impacts affect the ability of each student to have a quality education;

6. The fundamental purpose of this State's public education system is to ensure an equal opportunity for each student to have a quality education;

7. The needs and characteristics of each student have a direct influence on the ability of that student to take advantage of an opportunity for a quality education;

8. Recent education reforms, including the adoption of common core standards, the advancement of empowerment schools and charter schools, the creation of the Teachers and Leaders Council of Nevada and other important advancements in the public education system will enhance the ability of public schools to meet the needs of individual students;

9. Such reforms are specifically designed to improve and advance the purpose of this State's public education system and to help prepare students for higher education and for careers;

10. The success of these reforms depends on a funding method that effectively meets the variety of individual student needs and characteristics inherent in an ever-growing and increasingly diverse student body;

11. Recent economic problems in this State have illustrated the necessity of using every public dollar to its maximum benefit;

12. Many other states use funding systems based on individual student needs and characteristics to advance their goals regarding student achievement; and

13. A new method for funding public schools in this State is necessary to continue to improve and advance the purpose of this State's public education system.

Sec. 22. **1. The Legislative Commission shall appoint a committee to conduct an interim study concerning the development of a new method for funding public schools in this State.**

2. The committee must be composed of six Legislators as follows:

(a) Three members appointed by the Majority Leader of the Senate, at least one of whom must be appointed from the membership of the Senate Standing Committee on Education during the 76th Session of the Nevada Legislature; and

(b) Three members appointed by the Speaker of the Assembly, at least one of whom must be appointed from the membership of the Assembly Standing Committee on Education during the 76th Session of the Nevada Legislature.

3. The committee shall consult with and solicit input from individuals and organizations with expertise in matters relevant to the purpose of developing a new method for funding public schools in this State.

4. Any such method proposed by the committee must:

(a) Be consistent with the constitutional responsibility of the Legislature to provide for a uniform system of common schools; and

(b) Account for, and be based on, differences in the needs and characteristics of individual students.

5. The committee shall submit a report on its findings, including, without limitation, any proposed methods for funding public schools in this State and any recommendations for legislation, to the 77th Session of the Nevada Legislature.

6. The committee shall carry out the duties of this section only to the extent that money is available to do so from sources including, without limitation, gifts, grants and donations.

Sec. 23. **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. 907 repeals Senate Bill No. 11 as a whole and replaces it with the provisions directing the Legislative Commission to appoint a committee to conduct an interim study concerning the development of a new method for funding public schools in the State of Nevada.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 370.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 914.

"SUMMARY—Makes various changes to provisions governing children who are placed with someone other than a parent. (BDR 38-909)"

"AN ACT relating to child welfare; ~~[requiring a school district]~~ **providing for elementary schools** to develop ~~[an individualized]~~ **academic plans** ~~[plan of instruction]~~ for foster children **enrolled in elementary schools** to assist such children in achieving academic success **;** ~~[through high school;]~~ requiring the licensee of a foster home to obtain a written explanation of the need for and effect of any prescription medication provided to a foster child; ~~[providing that placement with a relative or fictive kin must be given priority over other placements when a child is removed from his or her home;]~~ requiring the Department of Corrections to allow a prisoner who has a child that has been placed in foster care to maintain contact with the child in certain circumstances; ~~[requiring the State Board of Parole Commissioners to include a plan for reunification with a child who is in foster care as a condition of parole for certain prisoners;]~~ **providing for the use of telecommunications devices by prisoners for that purpose;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 2 of this bill requires a licensee of a foster home who enrolls a foster child in school to request the school district to develop an individualized plan of instruction for the child.]~~ **Existing law requires an academic plan for pupils in middle school or junior high school and a 4-year academic plan for pupils in ninth grade. (NRS 388.165, 388.205)** **Section 8** of this bill requires the **board of trustees of each** school district to ~~[develop such a]~~ **adopt a policy for each elementary school in the district to develop an academic** plan for ~~[the]~~ **each** foster child **enrolled in the elementary school whom the school district is informed is enrolled in the school. The academic plan must be reviewed at least annually, and a new plan must be developed for any pupil who transfers to an elementary school whom the school is informed is a foster child. The academic plan must be developed** with the goal of the child achieving academic success **.** ~~[through high school. Section 8 further requires the school district to review~~

~~the plan at least twice each academic year and provide to the licensee a written report concerning the academic progress of the child and any revisions that have been made to the plan.]~~ **Section 2 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to ensure that a school district is informed when a foster child is enrolled in a school in the school district so that an academic plan may be developed for the foster child. Section 5** of this bill requires **that** a copy of the **academic** plan ~~[and any written reports to]~~ be submitted to the court with jurisdiction over the child during the biennial review of the placement of the child.

Section 3 of this bill requires a licensee of a foster home to obtain a written explanation from a medical professional who provides a prescription for medication for a foster child. The explanation must include the need for the medication and the effect of the medication on the child. **Section 5 requires that a copy of any such explanations be submitted to the court with jurisdiction over the child during the biennial review of the placement of the child.**

~~[Section 4 of this bill establishes the order of priority for placing a child who is taken into protective custody and allows a child to be placed with a fictive kin, which is a person who is not related to the child but with whom the child has a significant relationship. Section 4 also specifies that in making such a placement, siblings must be placed together whenever possible.]~~

Section 6 of this bill requires the Department of Corrections to allow a prisoner whose child has been placed with someone other than a parent to maintain contact with the child if the child is willing ~~[and allowed]~~ to maintain such contact ~~[.]~~ **and the contact is not prohibited by law, by order of the court or by regulations of the Department.** The Department is further required ~~[to maintain equipment]~~ to allow such a prisoner to videoconference with the child ~~[. Section 7 of this bill requires the State Board of Parole Commissioners to determine before a prisoner is released on parole whether the prisoner has a minor child who has been placed with someone other than a parent with whom the prisoner may reunite. If such a child is willing and allowed to participate in a plan for reunification, the Board is required to include such a plan in the conditions for parole of the prisoner.]~~ **if such equipment is available. Section 6.3 of this bill authorizes a prisoner to use approved telecommunications devices subject to any limitations to engage in such communications with his or her child. Section 6.7 allows communications by a prisoner using telecommunications devices to be intercepted in certain circumstances.**

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ~~*[1. A licensee that operates a foster home who enrolls a child that has been placed in the foster home in school shall request the school*~~

district where the child is enrolled to establish an individualized plan of instruction] ***The Division shall adopt regulations to ensure:***

1. That a school district is informed when a foster child is enrolled in an elementary school within the school district so that the elementary school may prepare an academic plan for the child as required pursuant to section 8 of this act.

2. [The licensee shall provide to] That the licensing authority [a copy of the individualized plan of instruction and each written report received from the school district concerning the academic progress of the child.] receives a copy of an academic plan prepared for a foster child pursuant to NRS 388.165 or 388.205 or section 8 of this act.

Sec. 3. ***1. A licensee that operates a foster home who obtains a prescription for medication for a child that has been placed in the foster home shall request the physician or other medical professional who prescribes the medication to provide a written explanation about the need for the medication and the affect of the medication on the child.***

2. The licensee shall provide to the licensing authority a copy of any explanation about prescription medication received pursuant to subsection 1.

Sec. 4. [NRS 432B.390 is hereby amended to read as follows:

432B.390 1. An agent or officer of a law enforcement agency, an officer of the local juvenile probation department or the local department of juvenile services, or a designee of an agency which provides child welfare services:

(a) May place a child in protective custody without the consent of the person responsible for the child's welfare if the agent, officer or designee has reasonable cause to believe that immediate action is necessary to protect the child from injury, abuse or neglect.

(b) Shall place a child in protective custody upon the death of a parent of the child, without the consent of the person responsible for the welfare of the child, if the agent, officer or designee has reasonable cause to believe that the death of the 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.

2. When an agency which provides child welfare services receives a report pursuant to subsection 2 of NRS 432B.630, a designee of the agency which provides child welfare services shall immediately place the child in protective custody.

3. If there is reasonable cause to believe that the death of a parent of a child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018, a protective custody hearing must be held pursuant to NRS 432B.470, whether the child was placed in protective custody or with a relative. If an agency other than an agency which provides child welfare services becomes aware that there is reasonable cause to believe that the death of a parent of a child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to

~~NRS 33.018, that agency shall immediately notify the agency which provides child welfare services and a protective custody hearing must be scheduled.~~

~~4. An agency which provides child welfare services shall request the assistance of a law enforcement agency in the removal of a child if the agency has reasonable cause to believe that the child or the person placing the child in protective custody may be threatened with harm.~~

~~5. Before taking a child for placement in protective custody, the person taking the child shall show his or her identification to any person who is responsible for the child and is present at the time the child is taken. If a person who is responsible for the child is not present at the time the child is taken, the person taking the child shall show his or her identification to any other person upon request. The identification required by this subsection must be a single card that contains a photograph of the person taking the child and identifies the person as a person authorized pursuant to this section to place a child in protective custody.~~

~~6. A child placed in protective custody pending an investigation and a hearing held pursuant to NRS 432B.470 must be placed~~ , ~~[~~in a hospital, if the child needs hospitalization, or in a shelter, which may include, without limitation, a foster home or other home or facility which provides care for those children,~~]~~ except as otherwise provided in NRS 432B.3905 ~~[.]~~ *, in the following order of priority:*

~~(a) In a hospital, if the child needs hospitalization.~~

~~(b) With a parent of the child, if the agency which provides child welfare services reasonably believes that the parent did not participate in the alleged abuse or neglect.~~

~~(c) With a person who is related within the fifth degree of consanguinity who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.~~

~~(d) With a fictive kin who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.~~

~~(e) In a foster home that is licensed pursuant to chapter 424 of NRS.~~

~~(f) In any other licensed shelter that provides care to such children.~~

~~7. Whenever possible, a child placed pursuant to subsection 6 must be placed together with any siblings of the child.~~ ~~Such a child must not be placed in a jail or other place for detention, incarceration or residential care of persons convicted of a crime or children charged with delinquent acts.~~

~~[~~7.~~]~~ *~~8.~~* ~~A person placing a child in protective custody pursuant to subsection 1 shall:~~

~~(a) Immediately take steps to protect all other children remaining in the home or facility, if necessary;~~

~~(b) Immediately make a reasonable effort to inform the person responsible for the child's welfare that the child has been placed in protective custody;~~

~~(c) Give preference in placement of the child to any person related within the fifth degree of consanguinity to the child who is suitable and able to~~

~~provide proper care and guidance for the child, regardless of whether the relative resides within this State; and~~

~~(d) As soon as practicable, inform the agency which provides child welfare services and the appropriate law enforcement agency, except that if the placement violates the provisions of NRS 432B.3905, the person shall immediately provide such notification.~~

~~[8.] *9. If a child is placed with any person who resides outside this State, the placement must be in accordance with NRS 127.330.*~~

~~*10. As used in this section, "fictive kin" means a person who is not related by blood to a child, but who has a significant emotional and positive relationship with the child.]~~ **(Deleted by amendment.)**

Sec. 5. NRS 432B.580 is hereby amended to read as follows:

432B.580 1. Except as otherwise provided in this section and NRS 432B.513, if a child is placed pursuant to NRS 432B.550 other than with a parent, the placement must be reviewed by the court at least semiannually, and within 90 days after a request by a party to any of the prior proceedings. Unless the parent, guardian or the custodian objects to the referral, the court may enter an order directing that the placement be reviewed by a panel appointed pursuant to NRS 432B.585.

2. An agency acting as the custodian of the child shall, before any hearing for review of the placement of a child, submit a report to the court, or to the panel if it has been designated to review the matter, which includes:

(a) An evaluation of the progress of the child and the family of the child and any recommendations for further supervision, treatment or rehabilitation ~~[; and]~~ .

(b) Information concerning the placement of the child in relation to the child's siblings, including, without limitation:

(1) Whether the child was placed together with the siblings;

(2) Any efforts made by the agency to have the child placed together with the siblings;

(3) Any actions taken by the agency to ensure that the child has contact with the siblings; and

(4) If the child is not placed together with the siblings:

(I) The reasons why the child is not placed together with the siblings; and

(II) A plan for the child to visit the siblings, which must be approved by the court.

(c) A copy of ~~*[an individualized]*~~ ***an academic plan*** ~~*[of instruction]*~~ ***developed for the child pursuant to NRS 388.165 or 388.205 or section*** ~~*[2]*~~ ***8 of this act .*** ~~*[and any written reports concerning the academic progress of the child since the last hearing.]*~~

(d) ~~*[Any]*~~ ***A copy of any explanations regarding medication that has been prescribed for the child that have been submitted by a foster home pursuant to section 3 of this act.***

3. Except as otherwise provided in this subsection, a copy of the report submitted pursuant to subsection 2 must be given to the parents, the guardian ad litem and the attorney, if any, representing the parent or the child. If the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the parent has not appeared in the action, the report need not be sent to that parent.

4. After a plan for visitation between a child and the siblings of the child submitted pursuant to subparagraph (4) of paragraph (b) of subsection 2 has been approved by the court, the agency which provides child welfare services must request the court to issue an order requiring the visitation set forth in the plan for visitation. If a person refuses to comply with or disobeys an order issued pursuant to this subsection, the person may be punished as for a contempt of court.

5. The court or the panel shall hold a hearing to review the placement, unless the parent, guardian or custodian files a motion with the court to dispense with the hearing. If the motion is granted, the court or panel may make its determination from any report, statement or other information submitted to it.

6. Except as otherwise provided in this subsection and paragraph (c) of subsection 4 of NRS 432B.520, notice of the hearing must be given by registered or certified mail to:

(a) All the parties to any of the prior proceedings; and

(b) Any persons planning to adopt the child, relatives of the child or providers of foster care who are currently providing care to the child.

➥ Notice of the hearing need not be given to a parent whose rights have been terminated pursuant to chapter 128 of NRS or who has voluntarily relinquished the child for adoption pursuant to NRS 127.040.

7. The court or panel may require the presence of the child at the hearing and shall provide to each person to whom notice was given pursuant to subsection 6 an opportunity to be heard at the hearing.

8. The court or panel shall review:

(a) The continuing necessity for and appropriateness of the placement;

(b) The extent of compliance with the plan submitted pursuant to subsection 2 of NRS 432B.540;

(c) Any progress which has been made in alleviating the problem which resulted in the placement of the child; and

(d) The date the child may be returned to, and safely maintained in, the home or placed for adoption or under a legal guardianship.

9. The provision of notice and an opportunity to be heard pursuant to this section does not cause any person planning to adopt the child, or any relative or provider of foster care to become a party to the hearing.

Sec. 6. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided by law , ~~[or]~~ by order of the court ~~[,]~~ or by regulations of the Department, the Director shall allow a prisoner to

maintain contact with a child of the prisoner who has been placed with someone other than a parent of the child if the child is willing ~~[and allowed]~~ to maintain such contact. Any such contact must be in accordance with regulations adopted by the Department.

2. The Director ~~[shall]~~ must allow a prisoner to videoconference with his or her child ~~[using]~~ if such equipment ~~[maintained by the Department.]~~ is available.

Sec. 6.3. **NRS 209.417 is hereby amended to read as follows:**

209.417 1. Except as otherwise provided in subsection 2, the warden or manager of an institution or facility shall ensure that no offender in the institution or facility has access to a telecommunications device.

2. An offender may use a telephone ***or, for the purpose of communicating with his or her child pursuant to section 6 of this act, any other approved telecommunications device*** subject to the limitations set forth in NRS 209.419.

3. As used in this section, "telecommunications device" means a device, or an apparatus associated with a device, that can enable an offender to communicate with a person outside of the institution or facility at which the offender is incarcerated. The term includes, without limitation, a telephone, a cellular telephone, a personal digital assistant, a transmitting radio or a computer that is connected to a computer network, is capable of connecting to a computer network through the use of wireless technology or is otherwise capable of communicating with a person or device outside of the institution or facility.

Sec. 6.7. **NRS 209.419 is hereby amended to read as follows:**

209.419 1. Communications made by an offender on any telephone ***or other telecommunications device*** in an institution or facility to any person outside the institution or facility may be intercepted if:

(a) The interception is made by an authorized employee of the Department; and

(b) Signs are posted near all telephones ***and other telecommunications devices*** in the institution or facility indicating that communications may be intercepted.

2. The Director shall provide notice or cause notice to be provided to both parties to a communication which is being intercepted pursuant to subsection 1, indicating that the communication is being intercepted. For the purposes of this section, a periodic sound which is heard by both parties during the communication shall be deemed notice to both parties that the communication is being intercepted.

3. The Director shall adopt regulations providing for an alternate method of communication for those communications by offenders which are confidential.

4. Except as otherwise provided in NRS 239.0115, a communication made by an offender is confidential if it is made to:

(a) A federal or state officer.

(b) A local governmental officer who is at some time responsible for the custody of the offender.

(c) An officer of any court.

(d) An attorney who has been admitted to practice law in any state or is employed by a recognized agency providing legal assistance.

(e) A reporter or editorial employee of any organization that reports general news including, but not limited to, any wire service or news service, newspaper, periodical, press association or radio or television station.

(f) The Director.

(g) Any other employee of the Department whom the Director may, by regulation, designate.

5. Reliance in good faith on a request or order from the Director or the Director's authorized representative constitutes a complete defense to any action brought against any public utility intercepting or assisting in the interception of communications made by offenders pursuant to subsection 1.

6. As used in this section, "telecommunications device" has the meaning ascribed to it in NRS 209.417.

Sec. 7. ~~[~~Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*Before a prisoner is released on parole, the Board shall determine whether the prisoner has a minor child who has been placed with someone other than a parent and, if so, whether the child is willing and allowed to participate in a plan to reunify the prisoner with the child. If the child is willing and allowed to participate in such a plan, the Board shall establish a plan to reunify the prisoner with the child and participation in the plan must be required as a condition of releasing the prisoner on parole.]*~~ **(Deleted by amendment.)**

Sec. 8. Chapter ~~[~~392~~]~~ **388** of NRS is hereby amended by adding thereto a new section to read as follows:

1. [When a] The board of trustees of each school district shall adopt a policy for each elementary school in the school district to develop an academic plan for each pupil enrolled in the elementary school for whom the school is informed [that] is a foster child . [has been enrolled at a school within the school district, the school district shall cause an individualized plan of instruction to be established for the child. The individualized] An academic plan must include consideration of the unique circumstances and educational background of the child and be developed with the goal of achieving academic success . [through high school.]

2. [An individualized plan of instruction established for a child must be reviewed at least twice each academic school year and adjusted as necessary to achieve the goals set forth in the plan. After each review, the school district shall provide a written report to the licensee that operates the foster home or other person identified as responsible for the foster child which must include, without limitation, a report on the academic progress of the child and any revision that was made to the plan.] An academic plan must

be reviewed and revised each year with appropriate modifications for the grade level of the pupil. A new academic plan must be developed for any pupil who transfers to an elementary school for whom the school is informed is a foster child.

3. An academic plan for a pupil must be used as a guide to plan, monitor and manage the pupil's educational development and make determinations of any assistance that may be necessary to the academic success of the pupil.

Sec. 9. 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. 914 to Senate Bill No. 370 requires that the Division of Child and Family Services adopt regulations to ensure that school districts are informed when a foster child is enrolled in an elementary school in the school district.

It requires that academic plans must be developed with the goal of achieving academic success, and must be reviewed and revised each year to manage the child's educational development.

The bill also requires that the Department of Corrections allow a prisoner to maintain contact with a child if there is a videoconference equipment available to do so.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 425.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 810.

"SUMMARY—Makes ~~[an appropriation]~~ **appropriations** to the Department of Motor Vehicles **and the Department of Administration.** ~~[for the replacement of computers and other associated equipment.]~~ (BDR S-1264)"

"AN ACT making ~~[an appropriation]~~ **various appropriations** to the Department of Motor Vehicles **and the Department of Administration;** ~~[for the replacement of computers and other associated equipment;]~~ and providing other matters properly relating thereto."

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

Section 1. **1.** There is hereby appropriated from the State Highway Fund to the Department of Motor Vehicles **, Director's Office,** the sum of $102,584 for the replacement of computer hardware, associated software and printers.

~~[Sec. 2.]~~ **2.** Any remaining balance of the appropriation made by ~~[section 1 of this act]~~ **subsection 1** 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 Highway Fund on or before September 20, 2013.

Sec. 2. **1. There is hereby appropriated from the State Highway Fund to the Automation Account of the Department of Motor Vehicles the sum of $905,210 for the replacement of computer hardware, associated software and printers.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 3. **1. There is hereby appropriated from the State Highway Fund to the Central Services and Records Division of the Department of Motor Vehicles the sum of $49,323 for the replacement of office equipment.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 4. **1. There is hereby appropriated from the State Highway Fund to the Motor Carrier Division of the Department of Motor Vehicles the sum of $23,670 for the replacement of office equipment.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 5. **1. There is hereby appropriated from the State Highway Fund to the Compliance Enforcement Division of the Department of**

Motor Vehicles the sum of $174,651 for the replacement of computer hardware, associated software and printers.

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 6. **1. There is hereby appropriated from the State Highway Fund to the Compliance Enforcement Division of the Department of Motor Vehicles the sum of $16,516 for training equipment, office equipment and protective equipment.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 7. **1. There is hereby appropriated from the State Highway Fund to the Hearings Office of the Department of Motor Vehicles the sum of $43,041 for the replacement of computer hardware, associated software and printers.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 8. **1. There is hereby appropriated from the State Highway Fund to the Field Services Division of the Department of Motor Vehicles the sum of $1,123,927 for the replacement of computer hardware, associated software and printers.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 9. **1. There is hereby appropriated from the State Highway Fund to the Field Services Division of the Department of Motor Vehicles the sum of $164,348 for the replacement of office equipment.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 10. **1. There is hereby appropriated from the State Highway Fund to the Administrative Services Division of the Department of Motor Vehicles the sum of $113,680 for replacement of a vehicle, a forklift, mail scanners, telephones, headsets and office equipment.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 11. **1. There is hereby appropriated from the State Highway Fund to the Motor Carrier Division of the Department of Motor Vehicles the sum of $156,145 for the replacement of computer hardware, associated software, printers and scanners.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 12. **1. There is hereby appropriated from the State Highway Fund to the Administrative Services Division of the Department of**

Motor Vehicles the sum of $192,285 for the replacement of computers, laptops, printers and scanners.

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 13. **1. There is hereby appropriated from the State Highway Fund to the Hearings Office of the Department of Motor Vehicles the sum of $2,121 for the replacement of chairs.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 14. **1. There is hereby appropriated from the State Highway Fund to the Department of Motor Vehicles, Director's Office, the sum of $4,242 for the replacement of chairs.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 15. **1. There is hereby appropriated from the State Highway Fund to the Management Services and Programs Division of the Department of Motor Vehicles the sum of $41,589 for the replacement of computer hardware, associated software and printers.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 16. **1. There is hereby appropriated from the State Highway Fund to the Central Services and Records Division of the Department of Motor Vehicles the sum of $345,083 for the replacement of computer hardware, associated software and printers.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

Sec. 17. **1. There is hereby appropriated from the State Highway Fund to the Motor Pool Division of the Department of Administration the sum of $117,282 for vehicles to be assigned to the Department of Motor Vehicles.**

2. Any remaining balance of the appropriation made by subsection 1 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 Highway Fund on or before September 20, 2013.

~~[Sec. 3.]~~ ***Sec. 18.*** This act becomes effective upon passage and approval.

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. 810 to Senate Bill No. 425 takes a number of individual appropriations bills that were submitted and amends them into one bill so that we can save some paperwork this Session.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 137.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 913.

"SUMMARY—Revises provisions governing programs of nutrition in public schools. (BDR 34-191)"

"AN ACT relating to education; requiring the implementation of a school breakfast program at certain public schools; requiring the Department of Education to report on the school breakfast program for each public school; requiring school districts to report on school nutrition programs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Child Nutrition Act enacted in 1966 established the School Breakfast Program which provides grants to the states to establish school breakfast programs in public schools. (42 U.S.C. §§ 1771 et. seq.) Federal regulations provide that a public school may elect to operate a school breakfast program pursuant to one of three alternative Provisions and prescribe the requirements by which a public school may operate the program pursuant to one of those Provisions. (7 C.F.R. § 245.9) If a school provides a school breakfast program pursuant to Provision 2 of the federal regulations, the school serves those meals free of charge to all pupils enrolled in the school. Under existing law, the boards of trustees of school districts and the governing bodies of charter schools are authorized to operate or provide for the operation of programs of nutrition in the public schools under their jurisdiction. (NRS 387.090) **Section 1** of this bill requires the implementation of a school breakfast program to provide breakfast to pupils enrolled in each public school, including a charter school, that is eligible to operate a program of nutrition in accordance with the requirements of Provision 2 set forth in the federal regulations and as authorized by the Department of Education. **Section 1** also requires the Department, on a biennial basis, to prepare a written report on the school breakfast program for each public school in this State and requires the board of trustees of each school district, on a biennial basis, to submit to the Department a report containing certain information concerning nutrition programs. **Section 1** further requires the Department to submit compilations of the reports, on or before January 1 of each odd-numbered year, to the Legislative Committee on Health Care, the Interim Finance Committee and the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

Effective on July 1, 2013, section 3.5 of this bill provides that the school breakfast program implemented by a school district or charter school must provide for the serving of breakfast after the school day has commenced in the following order of priority: (1) the classroom; (2) a transportable manner; or (3) the cafeteria.

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

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

1. Except as otherwise provided in subsection 2, if a public school is eligible to operate a program of nutrition in accordance with the

requirements of Provision 2 set forth in 7 C.F.R. § 245.9, and as authorized by the Department, the board of trustees of the school district in which the school is located or the governing body of the charter school, as applicable, shall implement a breakfast program at the school. ~~*[The program must provide for the serving of breakfast after the school day has commenced in the following order of priority:*~~

~~*(a) The classroom;*~~

~~*(b) A transportable manner; or*~~

~~*(c) The cafeteria.]*~~

2. The board of trustees of a school district in a county whose population is less than 55,000 may submit a request to the State Board for an exemption from the requirements of subsection 1 on a form prescribed by the Department. The State Board shall grant such an exemption if the State Board determines that a fiscal hardship exists for the school district.

3. The Department shall, on a biennial basis, prepare a written report on the school breakfast program, for each public school in this State, including, without limitation:

(a) The percentage of pupils enrolled in the school who participate in the program, which must be reported for the immediately preceding 4 years as that data is available;

(b) A comparison between the:

(1) Number of pupils who are eligible to receive free or reduced-priced breakfasts;

(2) Number of pupils who participate in the school breakfast program; and

(3) Total enrollment of pupils in the school;

(c) An identification of the method by which the school provides breakfast to pupils;

(d) The average daily participation in the school breakfast program of pupils who are eligible to receive free or reduced-price breakfasts; and

(e) The percentage of pupils who are eligible to receive free or reduced-price breakfasts and who participate in the school breakfast program.

4. The board of trustees of each school district shall, on a biennial basis, submit to the Department a written report on school nutrition programs within the school district, which must be reported for the immediately preceding 4 years as that data is available, including, without limitation:

(a) The percentage of pupils enrolled in the school district who participate in the school breakfast program and the progress made by the school district in increasing that participation;

(b) The percentage of public schools within the school district that participate in the school breakfast program and the progress made by the school district in increasing that participation;

(c) The percentage of pupils who participate in each program of nutrition offered by the school district and the progress made by the school district in increasing that participation;

(d) A list of each public school in the school district that operates a program of nutrition during the summer, including, without limitation:

(1) A list of each sponsor of such a program;

(2) The number of sites at which the sponsor offers the program; and

(3) The number of meals served at each site; and

(e) The amount of money the school district is eligible to receive from the Federal Government and from other sources for the school breakfast program offered by the school district and the amount of money the school district receives for that program.

5. On or before November 1 of each even-numbered year, the Department shall compile the data for each school district from the reports prepared pursuant to subsections 3 and 4 and submit each school district's compilation to the board of trustees of that school district for review. Upon review, the board of trustees of each school district shall, on or before December 15 of each even-numbered year, submit to the Department a written explanation of any decrease in the number of pupils participating in the school breakfast program and a plan to improve the number of pupils participating.

6. On or before January 1 of each odd-numbered year, the Department shall submit the compilations prepared by the Department pursuant to subsection 5 and the plans to improve prepared by the school districts pursuant to subsection 5 to the:

(a) Legislative Committee on Health Care.

(b) Interim Finance Committee.

(c) Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

Sec. 2. NRS 387.070 is hereby amended to read as follows:

387.070 As used in NRS 387.070 to 387.105, inclusive, ***and section 1 of this act,*** "program of nutrition" means a program under which food is served to or nutritional education and assistance are provided for children and adults by any public school, private school or public or private institution on a nonprofit basis, including any such program for which assistance may be made available out of money appropriated by the Congress of the United States. The term includes, but is not limited to, a school lunch program.

Sec. 3. NRS 387.090 is hereby amended to read as follows:

387.090 ~~[The]~~ ***In addition to the school breakfast program required by section 1 of this act, the*** board of trustees of each school district and the governing body of each charter school may:

1. Operate or provide for the operation of programs of nutrition in the public schools under their jurisdiction.

2. Use therefor money disbursed to them pursuant to the provisions of NRS 387.070 to 387.105, inclusive, ***and section 1 of this act,*** gifts, donations and other money received from the sale of food under those programs.

3. Deposit the money in one or more accounts in one or more banks or credit unions within the State.

4. Contract with respect to food, services, supplies, equipment and facilities for the operation of the programs.

Sec. 3.5. **Section 1 of this act is hereby amended to read as follows:**

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

1. Except as otherwise provided in subsection 2, if a public school is eligible to operate a program of nutrition in accordance with the requirements of Provision 2 set forth in 7 C.F.R. § 245.9, and as authorized by the Department, the board of trustees of the school district in which the school is located or the governing body of the charter school, as applicable, shall implement a breakfast program at the school. ***The program must provide for the serving of breakfast after the school day has commenced in the following order of priority:***

(a) The classroom;

(b) A transportable manner; or

(c) The cafeteria.

2. The board of trustees of a school district in a county whose population is less than 55,000 may submit a request to the State Board for an exemption from the requirements of subsection 1 on a form prescribed by the Department. The State Board shall grant such an exemption if the State Board determines that a fiscal hardship exists for the school district.

3. The Department shall, on a biennial basis, prepare a written report on the school breakfast program, for each public school in this State, including, without limitation:

(a) The percentage of pupils enrolled in the school who participate in the program, which must be reported for the immediately preceding 4 years as that data is available;

(b) A comparison between the:

(1) Number of pupils who are eligible to receive free or reduced-priced breakfasts;

(2) Number of pupils who participate in the school breakfast program; and

(3) Total enrollment of pupils in the school;

(c) An identification of the method by which the school provides breakfast to pupils;

(d) The average daily participation in the school breakfast program of pupils who are eligible to receive free or reduced-price breakfasts; and

(e) The percentage of pupils who are eligible to receive free or reduced-price breakfasts and who participate in the school breakfast program.

4. The board of trustees of each school district shall, on a biennial basis, submit to the Department a written report on school nutrition programs within the school district, which must be reported for the immediately preceding 4 years as that data is available, including, without limitation:

(a) The percentage of pupils enrolled in the school district who participate in the school breakfast program and the progress made by the school district in increasing that participation;

(b) The percentage of public schools within the school district that participate in the school breakfast program and the progress made by the school district in increasing that participation;

(c) The percentage of pupils who participate in each program of nutrition offered by the school district and the progress made by the school district in increasing that participation;

(d) A list of each public school in the school district that operates a program of nutrition during the summer, including, without limitation:

(1) A list of each sponsor of such a program;

(2) The number of sites at which the sponsor offers the program; and

(3) The number of meals served at each site; and

(e) The amount of money the school district is eligible to receive from the Federal Government and from other sources for the school breakfast program offered by the school district and the amount of money the school district receives for that program.

5. On or before November 1 of each even-numbered year, the Department shall compile the data for each school district from the reports prepared pursuant to subsections 3 and 4 and submit each school district's compilation to the board of trustees of that school district for review. Upon review, the board of trustees of each school district shall, on or before December 15 of each even-numbered year, submit to the Department a written explanation of any decrease in the number of pupils participating in the school breakfast program and a plan to improve the number of pupils participating.

6. On or before January 1 of each odd-numbered year, the Department shall submit the compilations prepared by the Department pursuant to subsection 5 and the plans to improve prepared by the school districts pursuant to subsection 5 to the:

(a) Legislative Committee on Health Care.

(b) Interim Finance Committee.

(c) Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

Sec. 4. 1. Each school district shall increase by ~~[15]~~ **10** percent the number of pupils who are enrolled in the school district and participating in a school breakfast program on or before June 30, 2013, and annually thereafter, so that the school district achieves 100-percent participation in the school breakfast program.

2. Each school district shall prepare a report indicating whether the school district attained the ~~[15]~~ **10** percent increase required by subsection 1 during the 2011-2013 biennium. On or before August 1, 2013, each school district shall submit the report to the:

(a) Legislative Committee on Health Care.

(b) Interim Finance Committee.

(c) Legislative Committee on Education.

Sec. 5. 1. This **section and sections 1, 2, 3 and 4 of this** act ~~[becomes]~~ **become** effective on July 1, 2011.

2. Section 3.5 of this act becomes effective on July 1, 2013.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Amendment No. 913 to Senate Bill No. 137 states that effective on July 1, 2013, Section 3.5 of the bill provides that the school breakfast program implemented by a school district or charter school must provide for the serving of breakfast after the school day has commenced in the following order of priority: the classroom; a transportable manner; or the cafeteria.

Amendment adopted.

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

Assembly Bill No. 167.

Bill read second time.

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

Amendment No. 879.

"SUMMARY—Enacts provisions for the protection of the waters of this State from aquatic invasive species. (BDR 45-847)"

"AN ACT relating to aquatic species; prohibiting a person from introducing certain aquatic species into the waters of this State; providing for the inspection of vessels for aquatic invasive species; requiring vessels to be inspected for the presence of aquatic invasive species before being operated on the waters of this State; requiring decontamination of any vessels where an aquatic invasive species is present; authorizing the impoundment or quarantine of certain vessels; requiring an aquatic invasive species fee to be paid by all operators of vessels; providing a civil penalty; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law makes it a misdemeanor for any person to introduce any aquatic life into this State without the permission of the Department of Wildlife. Existing law also authorizes the Board of Wildlife Commissioners to prohibit the importation, transportation or possession of any species of wildlife that the Commission deems detrimental to the wildlife or the habitat of the wildlife in this State. (NRS 503.597) **Section 2** of this bill makes it a misdemeanor for a first offense and a category E felony for any subsequent offense to knowingly or intentionally introduce any aquatic species which

may be detrimental to the aquatic resources, aquatic species or water resources of this State. **Section 2** also provides for an additional civil penalty of not less than $25,000 and not more than $250,000 for anyone convicted of such introduction.

Section 4 of this bill authorizes the Department to set up inspection stations for vessels operating on the waters of this State to inspect such vessels for aquatic invasive species and prohibits any person from operating a vessel without first complying with the inspection program. **Section 4** also prohibits any person operating a vessel from leaving an impaired body of water and entering another body of water in this State without first having the vessel decontaminated. In addition, **section 4** allows a peace officer to inspect a vessel at any point if the peace officer has a reasonable belief based on articulable facts that an aquatic invasive species may be present on the vessel. Finally, if a person refuses to comply with a peace officer or the requirements of an inspection station, **section 4** allows the person's vessel to be impounded or quarantined. **Section 5** of this bill authorizes a peace officer to keep a vessel in impound or quarantine until it has been decontaminated or shown to be in compliance with the requirements of the Department.

Section 6 of this bill requires the Commission to establish an annual aquatic invasive species fee [,] which must not exceed $10 [, and] **for a motorboat owned or operated by a resident of this State and $5 for any other vessel owned or operated by a resident of this State. The fee must be $20 for a motorboat owned or operated by a nonresident of this State and $10 for any other vessel owned or operated by a nonresident of this State. Section 6 also** requires the Department to issue an aquatic invasive species decal as evidence of payment [.] **of the aquatic invasive species fee.** **Section 6** prohibits any person from operating a vessel on the waters of this State without first paying the fee and attaching the decal to his or her vessel as proof of payment.

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

Section 1. 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 or in the Trout Management Account pursuant to NRS 502.327,

➥ 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 ~~[,]~~ ***and NRS 503.597,*** 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. 2. NRS 503.597 is hereby amended to read as follows:

503.597 1. Except as otherwise provided in this section, it is unlawful, except by the written consent and approval of the Department, for any person at anytime to receive, bring or have brought or shipped into this State, or remove from one stream or body of water in this State to any other, or from one portion of the State to any other, or to any other state, any aquatic life or wildlife, or any spawn, eggs or young of any of them.

2. The Department shall require an applicant to conduct an investigation to confirm that such an introduction or removal will not be detrimental to the wildlife or the habitat of wildlife in this State. Written consent and approval of the Department may be given only if the results of the investigation prove that the introduction, removal or importation will not be detrimental to existing aquatic life or wildlife, or any spawn, eggs or young of any of them.

3. The Commission may through appropriate regulation provide for the inspection of such introduced or removed creatures and the inspection fees therefor.

4. The Commission may adopt regulations to prohibit the importation, transportation or possession of any species of wildlife which the Commission deems to be detrimental to the wildlife or the habitat of the wildlife in this State.

5. ***A person who knowingly or intentionally introduces, causes to be introduced or attempts to introduce an aquatic invasive species or injurious aquatic species into any waters of this State is guilty of:***

(a) For a first offense, a misdemeanor; and

(b) For any subsequent offense, a category E felony and shall be punished as provided in NRS 193.130.

6. A court before whom a defendant is convicted of a violation of subsection 5 shall, for each violation, order the defendant to pay a civil penalty of at least $25,000 but not more than $250,000. The money must be deposited into the Wildlife Account in the State General Fund and used to:

(a) Remove the aquatic invasive species or injurious aquatic species;

(b) Reintroduce any game fish or other aquatic wildlife destroyed by the aquatic invasive species or injurious aquatic species;

(c) Restore any habitat destroyed by the aquatic invasive species or injurious aquatic species;

(d) Repair any other damage done to the waters of this State by the introduction of the aquatic invasive species or injurious aquatic species; and

(e) Defray any other costs incurred by the Department because of the introduction of the aquatic invasive species or injurious aquatic species.

7. The provisions of this section do not apply to ~~[~~alternative~~]~~ ***:***

(a) Alternative livestock and products made therefrom ~~[.]~~ ***; or***

(b) The introduction of any species by the Department for sport fishing or other wildlife management programs.

8. As used in this section:

(a) "Aquatic invasive species" means an aquatic species which is exotic or not native to this State and which the Commission has determined to be detrimental to aquatic life, water resources or infrastructure for providing water in this State.

(b) "Injurious aquatic species" means an aquatic species which the Commission has determined to be a threat to sensitive, threatened or endangered aquatic species or game fish or to the habitat of sensitive, threatened or endangered aquatic species or game fish by any means, including, without limitation:

(1) Predation;

(2) Parasitism;

(3) Interbreeding; or

(4) The transmission of disease.

Sec. 3. Chapter 488 of NRS is hereby amended by adding thereto the provisions set forth as sections 4, 5 and 6 of this act.

Sec. 4. ***1. It is unlawful for any person at any time to:***

(a) Launch a vessel into any body of water in this State for which the Department has approved an inspection program without first complying with that program;

(b) Refuse to comply with any requirements of the Department or any requirements of an inspection program approved by the Department; or

(c) Leave an impaired body of water in this State or any other state after operating a vessel on that impaired body of water and launch the vessel on any other body of water in this State without first decontaminating the vessel and any conveyance used on the impaired body of water.

2. In addition to any inspection conducted pursuant to NRS 488.900, each owner, operator or person in control of a vessel or conveyance shall stop at any mandatory inspection station for aquatic invasive species authorized by the Department. If a peace officer reasonably believes, based on articulable facts, that an aquatic invasive species or aquatic plant

material may be present on the vessel or conveyance, the peace officer may:

(a) Require the owner, operator or person in control of the vessel or conveyance to decontaminate the vessel or conveyance; or

(b) In addition to any seizure required pursuant to NRS 488.910, impound or quarantine the vessel or conveyance.

3. A peace officer may stop and inspect a vessel or conveyance for the presence of aquatic invasive species or aquatic plant material, or for proof of a required inspection:

(a) Before a vessel is launched into a body of water in this State;

(b) Before a vessel or conveyance departs from a body of water in this State, a launch ramp or a vessel staging area;

(c) If the vessel or conveyance is visibly transporting any aquatic invasive species or aquatic plant material; or

(d) If the peace officer reasonably believes, based on articulable facts, that an aquatic invasive species or aquatic plant material is present.

4. If a peace officer conducts an inspection of a vessel or conveyance pursuant to this section and determines that an aquatic invasive species or aquatic plant material is present on the vessel or conveyance, the peace officer may order the vessel or conveyance to be decontaminated.

5. A peace officer may impound or quarantine a vessel if:

(a) An inspection conducted pursuant to this section indicates the presence of an aquatic invasive species or aquatic plant material on the vessel or conveyance; or

(b) The owner, operator or person in control of the vessel or conveyance refuses to:

(1) Submit to an inspection authorized pursuant to this section; or

(2) Comply with an order issued pursuant to this section to decontaminate his or her vessel or conveyance.

6. As used in this section, "impaired body of water" means any body of water in this State or any other state which the Commission or another governmental entity has identified as containing an aquatic invasive species.

Sec. 5. *1. If a peace officer orders a vessel or conveyance to be impounded or quarantined pursuant to section 4 of this act, the vessel or conveyance may be impounded or quarantined for a reasonable period to ensure that the vessel or conveyance is inspected and decontaminated and that any aquatic invasive species or aquatic plant material is completely removed.*

2. The owner of a vessel or conveyance which is impounded or quarantined is responsible for all costs associated with the impoundment or quarantine.

3. The Department may suspend the certificate of number or validation decal of an impounded or quarantined vessel until:

(a) The operator or owner of the vessel has completed the decontamination of the vessel; and

(b) The Department has inspected the vessel and determined that it is in compliance with section 4 of this act.

Sec. 6. ***1. A person shall not operate a vessel on the waters of this State unless the person has:***

(a) Paid to the Department the aquatic invasive species fee established pursuant to subsection 4; and

(b) Attached the aquatic invasive species decal issued pursuant to subsection 2 to the port side transom of the vessel so that the decal is distinctly visible.

2. The Department shall issue to a person who pays the fee established pursuant to subsection 4 an aquatic invasive species decal as evidence of the payment of the aquatic invasive species fee.

3. Aquatic invasive species decals expire at the end of each calendar year. Only the decal for the current year may be displayed on a vessel.

4. The Commission shall establish by regulation an aquatic invasive species fee, which :

(a) For a motorboat which is owned or operated by a person who is a resident of this State, must not exceed $10 [, to] ;

(b) For a vessel, other than a motorboat, which is owned or operated by a person who is a resident of this State, must not exceed $5;

(c) For a motorboat which is owned or operated by a nonresident of this State, must be $20; and

(d) For a vessel, other than a motorboat, which is owned or operated by a nonresident of this State, must be $10.

5. The aquatic invasive species fee established pursuant to subsection 4 must be paid annually for the issuance of an aquatic invasive species decal. The fee must be deposited in the Wildlife Account in the State General Fund and used by the Department for enforcement of this section, NRS 503.597 and sections 4 and 5 of this act and for education about and management of aquatic invasive species.

Sec. 7. NRS 488.035 is hereby amended to read as follows:

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

1. ***"Aquatic invasive species" means an aquatic species which is exotic or not native to this State and which the Commission has determined to be detrimental to aquatic life, water resources or infrastructure for providing water in this State.***

2. "Aquatic plant material" means aquatic plants or parts of plants that are dependent on an aquatic environment to survive.

3. "Commission" means the Board of Wildlife Commissioners.

[2.] ***4. "Conveyance" means a motor vehicle, trailer or any other equipment used to transport a vessel or containers or devices used to haul water on a vessel that may contain or carry an aquatic invasive species or aquatic plant material.***

5. "Decontaminate" means eliminate any aquatic invasive species on a vessel or conveyance in a manner specified by the Commission which may include, without limitation, washing the vessel or conveyance, draining the water in the vessel or conveyance, drying the vessel or conveyance or chemically, thermally or otherwise treating the vessel or conveyance.

6. "Department" means the Department of Wildlife.

~~[3.]~~ ***7.*** "Flat wake" means the condition of the water close astern a moving vessel that results in a flat wave disturbance.

~~[4.]~~ ***8.*** "Interstate waters of this State" means waters forming the boundary between the State of Nevada and an adjoining state.

~~[5.]~~ ***9.*** "Legal owner" means a secured party under a security agreement relating to a vessel or a renter or lessor of a vessel to the State or any political subdivision of the State under a lease or an agreement to lease and sell or to rent and purchase which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

~~[6.]~~ ***10.*** "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

~~[7.]~~ ***11.*** "Operate" means to navigate or otherwise use a motorboat or a vessel.

~~[8.]~~ ***12.*** "Owner" means:

(a) A person having all the incidents of ownership, including the legal title of a vessel, whether or not he or she lends, rents or pledges the vessel; and

(b) A debtor under a security agreement relating to a vessel.

➥ "Owner" does not include a person defined as a "legal owner" under subsection ~~[5.]~~ ***9.***

~~[9.]~~ ***13.*** "Prohibited substance" has the meaning ascribed to it in NRS 484C.080.

~~[10.]~~ ***14.*** "Registered owner" means the person registered by the Commission as the owner of a vessel.

~~[11.]~~ ***15.*** A vessel is "under way" if it is adrift, making way or being propelled, and is not aground, made fast to the shore, or tied or made fast to a dock or mooring.

~~[12.]~~ ***16.*** "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

~~[13.]~~ ***17.*** "Waters of this State" means any waters within the territorial limits of this State.

Sec. 8. NRS 488.075 is hereby amended to read as follows:

488.075 1. The owner of each motorboat requiring numbering by this State shall file an application for a number and for a certificate of ownership with the Department on forms approved by it accompanied by:

(a) Proof of payment of Nevada sales or use tax as evidenced by proof of sale by a Nevada dealer or by a certificate of use tax paid issued by the Department of Taxation, or by proof of exemption from those taxes as provided in NRS 372.320.

(b) Such evidence of ownership as the Department may require.

➥ The Department shall not issue a number, a certificate of number or a certificate of ownership until this evidence is presented to it.

2. The application must be signed by the owner of the motorboat and must be accompanied by a fee of $20 for the certificate of ownership and a fee according to the following schedule as determined by the straight line length which is measured from the tip of the bow to the back of the transom of the motorboat:

Less than 13 feet	$20
13 feet or more but less than 18 feet	25
18 feet or more but less than 22 feet	40
22 feet or more but less than 26 feet	55
26 feet or more but less than 31 feet	75
31 feet or more	100

Except as otherwise provided in this subsection, all fees received by the Department under the provisions of this chapter must be deposited in the Wildlife Account in the State General Fund and ***, except as otherwise provided in section 6 of this act,*** may be expended only for the administration and enforcement of the provisions of this chapter. On or before December 31 of each year, the Department shall deposit with the respective county school districts 50 percent of each fee collected according to the motorboat's length for every motorboat registered from their respective counties. Upon receipt of the application in approved form, the Department shall enter the application upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat, a certificate of ownership stating the same information and the name and address of the registered owner and the legal owner.

3. A certificate of number may be renewed each year by the purchase of a validation decal. The fee for a validation decal is determined by the straight line length of the motorboat and is equivalent to the fee set forth in the schedule provided in subsection 2. The amount of the fee for issuing a duplicate validation decal is $20.

4. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by regulations of the Commission in order that the number may be clearly visible. The number must be maintained in legible condition.

5. The certificate of number must be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation.

6. The Commission shall provide by regulation for the issuance of numbers to manufacturers and dealers which may be used interchangeably upon motorboats operated by the manufacturers and dealers in connection with the demonstration, sale or exchange of those motorboats. The amount of the fee for each such a number is $20.

Sec. 9. 1. This section becomes effective upon passage and approval.

2. Sections 1 and 2 of this act become effective on July 1, 2011.

3. Sections 3 to 8, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2012 for all other purposes.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 879 to Assembly Bill No. 167 establishes different amounts for the aquatic invasive species fee based on an operator's state of residence and on the type of vessel being operated.

Amendment adopted.

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

Assembly Bill No. 228.

Bill read second time.

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

Amendment No. 890.

"SUMMARY—Directs the ~~[~~Legislative~~]~~ Commission **to Study Governmental Purchasing** to conduct ~~[~~an interim~~]~~ **a** study on contracts for public works. (BDR S-582)"

"AN ACT relating to public works; directing the ~~[~~Legislative~~]~~ Commission to **Study Governmental Purchasing to** conduct ~~[~~an interim~~]~~ **a** study of the feasibility of standard form contracts for public works at the state and local levels; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a public body is required to include certain provisions in a contract for a public work. (NRS 338.150, 338.153, 338.155) This bill directs the ~~[~~Legislative~~]~~ Commission **to Study Governmental Purchasing** to conduct ~~[~~an interim~~]~~ **a** study of the feasibility of the use of a standard form construction contract for each contract for a state or local public work.

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

Section 1. (Deleted by amendment.)

Sec. 2. 1. The ~~[~~Legislative~~]~~ Commission **to Study Governmental Purchasing created pursuant to NRS 332.215** shall ~~[~~appoint a committee to~~]~~ conduct ~~[~~an interim~~]~~ **a** study concerning the feasibility of using standard form construction contracts for public works by state and local governments.

2. ~~[~~The committee appointed by the Legislative Commission pursuant to subsection 1 must be composed of six Legislators as follows:

(a) Three members appointed by the Majority Leader of the Senate, at least one of whom must be appointed from the membership of the Senate Standing Committee on Government Affairs during the immediately preceding session of the Legislature; and

~~(b) Three members appointed by the Speaker of the Assembly, at least one of whom must be appointed from the membership of the Assembly Standing Committee on Government Affairs during the immediately preceding session of the Legislature.~~

~~3.~~ The study must include, without limitation:

(a) A review of:

(1) The laws of this State governing public works; and

(2) The use of standardized contracts in other states and localities;

(b) Construction contract clauses recommended for inclusion; and

(c) Any other matters which the ~~[~~Legislative~~]~~ Commission deems relevant to the consideration of the issues.

~~[4.]~~ **3.** In conducting the study, the ~~[~~committee~~]~~ **Commission** shall consider the recommendations and testimony from experts in construction and public works contracts, including, without limitation:

(a) National associations primarily representing the interests of public owners or private contractors;

(b) ~~[The Commission to Study Governmental Purchasing created by NRS 332.215;~~

~~(c)]~~ Representatives of management and labor organizations;

~~[(d)]~~ **(c)** The State Public Works Board; and

~~[(e)]~~ **(d)** Local government public works officials.

~~[5. The Legislative]~~

4. On or before January 15, 2013, the Commission shall submit a report of the results of the study and any recommendations for legislation to the **Director of the Legislative Counsel Bureau for transmittal to the** 77th Session of the Nevada Legislature.

Sec. 2.5. **The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.**

Sec. 3. 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. 228 establishes a study on the feasibility of standard form contracts for various public works. Amendment No. 890 deletes the legislative interim study.

It replaces it with a study by the Commission to Study Governmental Purchasing; and provides that the Legislature is not required to provide funding for any additional expenses related to the provisions of this act.

Amendment adopted.

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

Assembly Bill No. 562.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 891.

"SUMMARY—Revises provisions relating to the subsidy for coverage of certain retired persons under the Public Employees' Benefits Program. (BDR 23-1187)"

"AN ACT relating to the Public Employees' Benefits Program; revising provisions governing the subsidy for coverage of certain retired persons under the Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the payment of a subsidy to cover a portion of the cost of coverage under the Public Employees' Benefits Program for certain retired officers and employees with state service. (NRS 287.046) This bill specifies the subsidy for a retired person whose coverage is provided through the Program by an individual medical plan offered pursuant to the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., which is commonly known as Medicare.

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

Section 1. 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 amount approved by the Legislature each session to pay for a portion of the current and future health and welfare benefits for such retirees.

3. Except as otherwise provided in ~~[subsection 4,]~~ ***subsections*** ~~*[6]*~~ ***7 and*** ~~*[7,]*~~ ***8,*** 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]~~

4. Except as otherwise provided in subsection 6, the portion of the amount approved by the Legislature as described in subsection 2 to be paid to the Program from the Retirees' Fund for persons who retired before January 1, 1994, with state service is the base funding level defined for each year of the plan by the Program.

5. Except as otherwise provided in subsection ~~*[5,]*~~ ***6, adjustments*** to the portion ***of the amount approved by the Legislature*** ~~*[pursuant to]*~~ ***as described in 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]~~

~~*[5.]*~~ ***6. The portion to be paid to the Program from the Retirees' Fund on behalf of a retired person whose coverage is provided through the Program by an individual medical plan offered pursuant to the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., must be:***

(a) For persons who retired before January 1, 1994, the base funding level defined by the Legislature multiplied by 15.

(b) For persons who retired on or after January 1, 1994, the base funding level defined by the Legislature multiplied by the number of years of service of the person, excluding service purchased pursuant to NRS 1A.310 or 286.300, up to a maximum of 20 years of service.

~~*[6.]*~~ ***7. 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]~~ ***, 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.~~] ~~[7.]~~ ***8.*** If the amount calculated pursuant to subsection ~~[3]~~ ~~[4 or]~~ ***5 or 6*** 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.]~~ ~~[8.]~~ ***9.*** For the purposes of ~~[subsection 1:]~~ ***this section:***

(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.]~~ ~~[9.]~~ ***10.*** 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. 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.

Amendment No. 891 to Assembly Bill No. 562 makes a technical clarification on subsection 4, which states; as described in subsection 2, employees are to be paid from the Program from the Retirees' Fund for persons who retired before January 1, 1994, from state service is the base funding level defined for each year of the plan by the Program.

Amendment adopted.

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

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Denis, Parks and McGinness as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 98.

President Krolicki appointed Senators Schneider, Copening and Settelmeyer as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 136 .

President Krolicki appointed Senators Wiener, McGinness and Schneider as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 200.

President Krolicki appointed Senators Wiener, Copening and McGinness as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 402.

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 125.

The following Assembly amendment was read:

Amendment No. 760.

"SUMMARY—Revises provisions governing reporting of campaign contributions and expenses. (BDR 24-777)"

"AN ACT relating to elections; revising the dates by which the contributions to or expenses of a campaign must be reported; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a candidate for state, district, county, township or city office, as well as certain persons who make expenditures in support of a candidate or group of candidates, who advocate passage or defeat of a ballot question or who advocate the recall of a public officer, must report certain contributions and expenditures by certain deadlines. (NRS 294A.120, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360) This bill revises the dates upon which certain reports are required to be made ~~[from 7 days before a primary, general or special election to 7 days]~~ **to require the reports to be submitted** before the beginning of early voting in a primary, general or special election.

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

Section 1. 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 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 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 ~~*[beginning of early voting by personal appearance for the]*~~ primary election for that office, for the period

from the January 1 immediately preceding the primary election through ~~[12]~~ ***25*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election;

(b) ~~[Seven]~~ ***Four*** days before the ~~*[beginning of early voting by personal appearance for the* general]~~ ***primary*** election for that office, for the period from ~~[11]~~ ***24*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election through ~~[12]~~ ***5*** days before the ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for 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 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. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he or she is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) ~~[Seven]~~ ***Twenty-one*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~[12]~~ ***25*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election; ~~[and]~~

(b) ~~[Seven]~~ ***Four*** days before the ~~*[beginning of early voting by personal appearance for the* general]~~ ***primary*** election for that office, for the period from ~~[11]~~ ***24*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election through ~~[12]~~ ***5*** days before the ~~*[beginning of early voting by personal appearance for the* general]~~ ***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 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. Each form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the ***beginning of early voting by personal appearance for the*** special election, for the period from the candidate's nomination through 12 days before the ***beginning of early voting by personal appearance for 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 reporting 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. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall list each of the campaign contributions received on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) A district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign contributions must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

7. 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. 2. 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 ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election;

(b) ~~[~~Seven~~]~~ ***Four*** days before the ~~*[beginning of early voting by personal appearance for the*~~ general~~]~~ ***primary*** election or ~~[~~general~~]~~ ***primary*** city election for that office, for the period from ~~[~~11~~]~~ ***24*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election through ~~[~~12~~]~~ ***5*** days before the ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for 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 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 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 ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election; ~~[and]~~

(b) ~~[Seven]~~ ***Four*** days before the ~~*[beginning of early voting by personal appearance for the*~~ ~~general]~~ ***primary*** election or ~~[general]~~ ***primary*** city election for that office, for the period from ~~[11]~~ ***24*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election through ~~[12]~~ ***5*** days before the ~~*[beginning of early voting by personal appearance for 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 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 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 ***beginning of early voting by personal appearance for 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 ***beginning of early voting by personal appearance for 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, political party or business entity 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 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 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 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, 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. 3. 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 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, 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 ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election;

(b) ~~[Seven]~~ ***Four*** days before the ~~*[beginning of early voting by personal appearance for the*~~ ~~general]~~ ***primary*** election or ~~[general]~~ ***primary*** city election, for the period from ~~[11]~~ ***24*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election through ~~[12]~~ ***5*** days before the ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for 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 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. 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 ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election; ~~[and]~~

(b) ~~[Seven]~~ ***Four*** days before the ~~*[beginning of early voting by personal appearance for the*~~ ~~general]~~ ***primary*** election or ~~[general]~~ ***primary*** city election, for the period from ~~[11]~~ ***24*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election through ~~[12]~~ ***5*** days before the ~~*[beginning of early voting by personal appearance for 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 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. 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 ***beginning of early voting by personal appearance for the*** special election, for the period from the date that the question qualified for the ballot through 12 days before the ***beginning of early voting by personal appearance for 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 or 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 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.

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. 4. NRS 294A.200 is hereby amended to read as follows:

294A.200 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each of the campaign expenses in excess of $100 incurred and each amount in excess of $100 disposed of pursuant to NRS 294A.160 during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160.

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 ~~*[beginning of early voting by personal appearance for the]*~~ primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~[~~12~~]~~ ***25*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election;

(b) ~~[~~Seven~~]~~ ***Four*** days before the ~~*[beginning of early voting by personal appearance for the*~~ general~~]~~ ***primary*** election for that office, for the period from ~~[~~11~~]~~ ***24*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election through ~~[~~12~~]~~ ***5*** days before the ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early*~~

~~voting by personal appearance for 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 incurred during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he or she is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) ~~Seven~~ ***Twenty-one*** days before the ~~[beginning of early voting by personal appearance for the]~~ primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~12~~ ***25*** days before the ~~[beginning of early voting by personal appearance for the]~~ primary election; ~~and~~

(b) ~~Seven~~ ***Four*** days before the ~~[beginning of early voting by personal appearance for the general]~~ ***primary*** election for that office, for the period from ~~11~~ ***24*** days before the ~~[beginning of early voting by personal appearance for the]~~ primary election through ~~12~~ ***5*** days before the ~~[beginning of early voting by personal appearance for the general]~~ ***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 of the campaign expenses in excess of $100 incurred during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the ***beginning of early voting by personal appearance for the*** special election, for the period from the candidate's nomination through 12 days before the ***beginning of early voting by personal appearance for the*** special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each of the campaign expenses in excess of $100 incurred during the period on the form designed and provided by the Secretary of State

pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report each of the campaign expenses in excess of $100 incurred on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign expenses must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

7. County clerks who receive from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after receiving the report.

Sec. 5. 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 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 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 ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election;

(b) ~~[Seven]~~ ***Four*** days before the ~~*[beginning of early voting by personal appearance for the*~~ ~~general]~~ ***primary*** election or ~~[general]~~ ***primary*** city election for that office, for the period from ~~[11]~~ ***24*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election through ~~[12]~~ ***5*** days before the ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for 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 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 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 ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election; ~~[and]~~

(b) ~~[Seven]~~ ***Four*** days before the ~~*[beginning of early voting by personal appearance for the* general]~~ ***primary*** election or ~~[general]~~ ***primary*** city election for that office, for the period from ~~[11]~~ ***24*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election through ~~[12]~~ ***5*** days before the ~~*[beginning of early voting by personal appearance for 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 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 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 ***beginning of early voting by personal appearance for 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 ***beginning of early voting by personal appearance for 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, political party or business entity 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 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 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, 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. 6. 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 or business entity 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 ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election;

(b) ~~[Seven]~~ ***Four*** days before the ~~*[beginning of early voting by personal appearance for the* general]~~ ***primary*** election or ~~[general]~~ ***primary*** city election, for the period from ~~[11]~~ ***24*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election through ~~[12]~~ ***5*** days before the ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for 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 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, group of persons or business entity described in this subsection shall, not later than:

(a) ~~[Seven]~~ ***Twenty-one*** days before the ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early*~~

~~*voting by personal appearance for the]*~~ primary election or primary city election; ~~[and]~~

(b) ~~[~~Seven~~]~~ ***Four*** days before the ~~*[beginning of early voting by personal appearance for the* general~~]~~ ***primary*** election or ~~[~~general~~]~~ ***primary*** city election, for the period from ~~[~~11~~]~~ ***24*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary election or primary city election through ~~[~~12~~]~~ ***5*** days before the ~~*[beginning of early voting by personal appearance for 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 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 ***beginning of early voting by personal appearance for the*** special election, for the period from the date the question qualified for the ballot through 12 days before the ***beginning of early voting by personal appearance for 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. 7. 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 ***beginning of early voting by personal appearance for 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 ***beginning of early voting by personal appearance for 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 by the Secretary of State pursuant to

NRS 294A.373. The form must be signed by a representative of the committee 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 report of contributions must be filed with the Secretary of State. The committee may mail or transmit the report by regular mail, certified mail, facsimile machine or electronic means. 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.

5. 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. 8. 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 ***beginning of early voting by personal appearance for 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 ***beginning of early voting by personal appearance for 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 by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee 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 report of expenditures must be filed 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. 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. 9. NRS 294A.360 is hereby amended to read as follows:

294A.360 1. Every candidate for city office at a primary city election or general city election shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general city election for that office through the year immediately preceding the next general city election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160.

2. Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he or she is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) ~~[~~Seven~~]~~ ***Twenty-one*** days before the ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for the]*~~ primary city election;

(b) ~~[~~Seven~~]~~ ***Four*** days before the ~~*[beginning of early voting by personal appearance for the*~~ general~~]~~ ***primary*** city election for that office, for the period from ~~[~~11~~]~~ ***24*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary city election through ~~[~~12~~]~~ ***5*** days before the ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for 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 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 ~~*[beginning of early voting by personal appearance for 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 ~~*[beginning of early voting by personal appearance for the]*~~ primary city election; ~~[~~and~~]~~

(b) ~~[~~Seven~~]~~ ***Four*** days before the ~~*[beginning of early voting by personal appearance for the* general~~]~~ ***primary*** city election for that office, for the period from ~~[~~11~~]~~ ***24*** days before the ~~*[beginning of early voting by personal appearance for the]*~~ primary city election through ~~[~~12~~]~~ ***5*** days before the ~~*[beginning of early voting by personal appearance for 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 ***beginning of early voting by personal appearance for the*** special election, for the period from the candidate's nomination through 12 days before the ***beginning of early voting by personal appearance for 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.

Senator Parks moved that the Senate concur in the Assembly amendment to Senate Bill No. 125.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senator Horsford moved that the Senate adjourn until Sunday, June 5, 2011, at 3 p.m.

Motion carried.

Senate adjourned at 5:30 p.m.

Approved: BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE ONE HUNDRED AND NINETEENTH DAY

CARSON CITY (Sunday), June 5, 2011

Senate called to order at 4:51 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Dear God, We ask that You will lead us into all truth, prepare our hearts and minds for the business of this day, that we may behave with true courtesy and honor.

Compel us to be just and honest in our dealings. Let our motives be above suspicion. Let our words be our bond.

Save us from the fallacy of depending upon our personality or ingenuity or position to solve our problems. Since You have the answers, make us willing to listen to You, that we may vote on Your side and that Your will may be done in us.

These things we ask in Your Name.

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. 380, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 74, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Education, to which was referred Assembly Bill No. 222, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Education, to which was re-referred Senate Bill No. 197, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MO DENIS, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 427, 428, 473, 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 were re-referred Senate Bills Nos. 227, 313, 360, 371, 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 Health and Human Services, to which were referred Assembly Bills Nos. 123, 316, 345, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

ALLISON COPENING, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 300, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which was referred Assembly Bill No. 552, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

VALERIE WIENER, *Chair*

Mr. President:

Your Select Committee on Economic Growth and Employment, to which was referred Assembly Bill No. 574, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RUBEN J. KIHUEN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 30, 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. 43, 94, 106, 113, 126, 133, 154, 186, 187, 194, 222, 293, 405.

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 Senate Bills Nos. 54, 429, 442, 452, 475, 477, 498, 499.

MATTHEW BAKER
Assistant Chief Clerk of 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 passed Senate Bills Nos. 60, 443, 446.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, June 4, 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. 207, 208; Assembly Bill No. 579.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 542.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 440, Amendment No. 896, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendments Nos. 686, 845 to Assembly Bill No. 80; Senate Amendments Nos. 694, 851 to Assembly Bill No. 223, Senate Amendment No. 875 to Assembly Bill No. 359.

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. 803 to Assembly Bill No. 524; Senate Amendment No. 878 to Assembly Bill No. 525.

Also, I have the honor to inform your honorable body that the Assembly on this day receded from its action on Senate Bill No. 304, Assembly Amendment No. 804.

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. 99, Assembly Amendment No. 723, and requests a conference, and appointed Assemblymen Carlton, Ohrenschall and Hickey 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. 294, Assembly Amendment No. 815, and requests a conference, and appointed Assemblymen Atkinson, Carlton and Ellison 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 Carlton, Pierce and Grady as a Conference Committee concerning Assembly Bill No. 77.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Carlton, Segerblom and Hickey as a Conference Committee concerning Assembly Bill No. 199.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Segerblom, Daly and Goedhart as a Conference Committee concerning Assembly Bill No. 433.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the report of the Conference Committee concerning Senate Bill No. 264.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the report of the Conference Committee concerning Assembly Bill No. 277.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, June 5, 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. 129, 278, 338, 374, 423, 447, 449, 471, 476, 480, 503, 504, 505; Assembly Bill No. 580.

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. 168, Assembly Amendment No. 881, and requests a conference, and appointed Assemblymen Carlton, Bustamante Adams and Goedhart 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 Bobzien, Daly and Hickey as a Conference Committee concerning Assembly Bill No. 376.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bill No. 552 be re-referred to the Committee on Finance.

Motion carried.

Senator Wiener moved that for the remainder of this Legislative Session, that all necessary rules be suspended, reading so far be considered to have fulfilled the requirements of second reading, and that all bills and joint resolutions reported out of committee with a "Do pass" (without amendments) recommendation be declared emergency measures under the

Constitution and be immediately placed on the appropriate reading files on the next agenda time permitting.

Motion carried.

Senator Wiener moved that for the remainder of this Legislative Session, that all bills and resolutions reported out of committee with amendments be immediately placed on the appropriate reading files, time permitting.

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 5:01 p.m.

SENATE IN SESSION

At 5:06 p.m.

President Krolicki presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 579.

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

Motion carried.

Assembly Bill No. 580.

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

Motion carried.

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

Senate in recess at 5:08 p.m.

SENATE IN SESSION

At 8:09 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Assembly Bills Nos. 579, 580, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

STEVEN A. HORSFORD, *Chair*

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 542.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 11.

Bill read third time.

Roll call on Senate Bill No. 11:

YEAS—20.

NAYS—None.

ABSENT—Schneider.

Senate Bill No. 11 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 115.

Bill read third time.

Remarks by Senators Kieckhefer, Hardy, Copening, Schneider, Horsford and Roberson.

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

SENATOR KIECKHEFER:

Thank you, Mr. President. I have numerous problems with this bill. I would like to discuss a few of my concerns.

This bill is trying to address a problem through legislation that exists between an individual and their insurance company. If an individual is in an automobile accident and they are taken by ambulance to an emergency room that is out of network of their insurance company, this bill requires the hospital that takes that person, to accept the level of payment that is dictated by us, the Legislature. They are not allowed to bill for the cost of providing that service.

There are opportunities to contract with insurance companies. Most insurance companies cover a situation such as I have described. If you are an employee of the State of Nevada and are covered by PEBP and you are in a car accident and are taken to an out of network hospital, you are covered until you are stabilized and then transferred to a hospital in your network. For the Legislature to get in between the individual, their insurance company, and the hospital is inappropriate. We will be forcing hospitals to take a rate that is below the cost of providing service. We are already paying them less than the cost of service for Medicare and Medicaid. We are now asking them to take less from a private insurance company as well. This will result in a reduction in the level of service that hospitals are able to provide. We will lose access to services throughout our State. We are picking a winner and a loser. I think this is inappropriate. It will discourage insurers from contracting with hospitals if they are already guaranteed payment. They have stability they are looking for without having to go into contract. I find this inappropriate. I respectfully request you vote against this bill.

SENATOR HARDY:

Thank you, Mr. President. I agree with the Senator from Washoe District No. 4.

SENATOR COPENING:

Thank you, Mr. President. I know all of you have heard my lengthy explanation of Senate Bill No. 115 yesterday. There have been changes that have been made. The percentages have gone

up significantly. Various changes have been on the Assembly side to continue with the improvement of this bill. The reason this bill is important is that we have too many situations where a patient out of no choice of their own ends up in an emergency hospital room where they are not covered because it is an out of network hospital or it may be an in network hospital with an out of network physician. The patient is then responsible for a very large medical bill. We have had many people who have had to file medical bankruptcy as a result of this.

This bill attempts to come up with a fair payment schedule for physicians and hospitals so the patient is removed from the situation and the hospital and the physician will be reimbursed fairly. It allows for mediation in the event that a physician or a hospital does not believe that they are being reimbursed fairly.

I know this bill is not perfect, but the situation many patients face is not a good one, either. I will vote and stand in support of this bill. I have worked very hard with all sides involved to try to arrive at something reasonable. We will continue to work on this as much as we need to.

SENATOR SCHNEIDER:

Thank you, Mr. President. If I have an emergency tonight, perhaps a heart attack, and I am rushed to a hospital in my plan, my insurance company would pay for me at a certain level. If I went to an out of network hospital, it could cost me $100,000 or $200,000 by the time I was stabilized and perhaps needed heart surgery. Currently, if the hospital is out of network, it is all my responsibility. I am not covered at all under my insurance. Under your proposed amendments to this bill, my insurance would pay to a negotiated rate equal to that of my insurance coverage at my in network hospital. Is that correct?

SENATOR COPENING:

Currently, in the situation you just described, you would be responsible for that $200,000. Under the bill, there is a rate schedule that has been put in place. In your situation, where you have gone to an out of network hospital and your insurance does not cover, the hospital would be forced to receive payment as set forth in this bill. The bill states 115 percent above the Division of Industrial Relations' (DIR) schedule. That is for workers' compensation. In the Assembly, the percentage has been increased to 200 percent. That is what is going to proposed by them. There is a good reason for this. When we crunched the numbers at 115 percent above workers' compensation, it still fell below the contracted rates the hospitals were receiving. We do not want that to happen. We want them to be able to make more. When you are dealing with contracts, you do not want to put them in a situation where you are going to have a physician or a hospital losing money, but we have to protect the patient. That is what would be worked out. The insurance company would be required to pay the 200 percent, with the new amendment, of DIR's medical schedule.

SENATOR SCHNEIDER:

With this, the hospital is guaranteed 200 percent of DIR's schedule. They are guaranteed that under this bill. If I was uninsured or I had some insurance and I was taken to the closest hospital in an emergency, there is no guarantee. Under federal and State law, they have to take care of me because I was in a trauma situation. If I have no money, then the hospital is responsible for the entire bill. It is my understanding this is all for workers in a non-profit plan. Those workers, many in Las Vegas working in the resort and service industry, do not have big incomes. If their insurance is not going to cover their emergency treatment, they are going to go bankrupt and the hospital will get nothing.

SENATOR COPENING:

I want to clarify that the current bill we are voting on is limited to 115 percent for non-trauma and to 120 percent. This is less than what we are going to come back with and propose later. This will go up, if accepted by the body. It will go up to 200 percent and 230 percent.

You are correct. But, if you are uninsured you are out of luck. This bill is dealing with people who have insurance but have gone to an out of network facility for an emergency or to an in-network hospital, but the doctor who treated you was not part of your plan and you still received the $100,000 bill.

I had an emergency during the last session. My insurance did not cover anything up here. I had to go to an Urgent Care and I had to pay the full bill. I paid the deductible at the time, and then received the bill for the balance. I was surprised by this and called my insurance company. I asked them why they did not cover the bill. They told me that this was not part of my plan. I asked if a person has an emergency outside of their plan, they are not covered? They said, no they are not covered.

This bill is limited. It deals with the non-profit insurance companies. It deals with only emergency care. It is specific. We are talking about a small population. These are the people who file for bankruptcy. We are trying to protect them.

SENATOR KIECKHEFER:

Thank you, Mr. President. If the Senator did have a heart attack and he was taken to the hospital here, there is a distinct likelihood that his insurance company would cover the emergency service.

My two older children were born in an emergency situation at an out of network hospital. My plan stated that in case of emergency we are covered. The problem we are addressing with this bill is that there is a particular self-insured plan in Las Vegas that does not want to cover their members in situations where they are taken by ambulance after an accident. They do not want to assume that risk. That is their problem. They are coming to us asking us to stabilize their expenses because they do not want to. I do not think that is proper.

SENATOR HORSFORD:

I rise in support of Senate Bill No. 115. As a former member of the Health and Human Services Committee last session, I have experience working on this measure. I was assigned to work on a subcommittee with Senator Washington and other members to try to reach an agreement. An interim study was conducted which included several of the recommendations now included in Senate Bill No. 115.

I want to frame this differently from my colleague from Washoe District No. 4. This is not between insurance companies and doctors alone. That is a factor in the overall provisions of the bill, but this is a consumer bill as it pertains to health care in the State of Nevada. I would like to give you an example.

One of my children was playing with a sucker and it lodged in the back of the throat. We thought my child was choking. We called 911, but did not have ample time to get them to our home, so my wife and I drove to the hospital with our child. We arrived at the closest hospital, whether in network or out of network, we did not know, because we wanted our child to be safe, to be able to breathe. I filled out the paper work. They asked for my insurance card. They did all the necessary paperwork every hospital does. I did not ask if they were in or out of network. I did not ask if the doctor was in or out of network. I wanted to be certain my child received the best health care at that moment. Fortunately, there was not an issue. We were able to leave the hospital that night. Some weeks later, however, I got bills in the mail. I had paid my co-pay in the hospital for the required amount by my insurance company, as a consumer. The bills were for out of network costs from physicians who helped to treat my child when we were in the emergency room. I did not know about any of these provisions and how they applied until that moment, in that situation.

I have health insurance, but as a consumer am I supposed to have to pay an additional amount of cost because we happened to be treated by an out of network doctor? I assumed my insurance covered that. I did not care which hospital or which doctor saw my child. I wanted the care. I paid the bill, but many of our constituents do not have the ability to pay a bill like that. They are placed in the same situations, whether for a heart attack, a broken bone, or for whatever emergency may befall them, and they cannot pay.

Over the course of the debate on this legislation, which dates back to at least 2005 when Senator Heck worked on the bill, this has been an ongoing issue. In my view, this is a consumer issue. This is a quality of health care issue for consumers.

To my colleagues who may object to the measure and some of the contracting provisions, I do not dispute some of their concerns. I feel the Chair of the Health and Human Services Committee and the members on that Committee have done everything they could to help balance this legislation by requiring adequacy of network. Some insurance companies do not have a very

good network of providers even though they contract out. Do we know that as consumers? We will if Senate Bill No. 115 is passed. It will be something that is required.

As the Chair of the Health and Human Services Committee indicated, there will be additional adjustments made in the Assembly. There is an agreement to increase the percentage based on the request from those in the hospital industry. That is fair. What I do not think is fair is to deny consumers legislation that protects them from medical bankruptcy. That is what is happening now. We have constituents who because of no fault of their own end up in a situation receiving bills totaling many thousands of dollars because they happen to be seen by the wrong doctor or be taken to the wrong facility. It is not wrong for the quality of care, but for insurance purposes. When those bills come due, and they are not paid, that cost is passed on to all of us in our premiums for insurance. That is why Senate Bill No. 115 deserves this body's support. I urge the members to approve this measure.

SENATOR ROBERSON:

Thank you, Mr. President. I would like to respond to comments made by my colleagues. My colleague from Washoe County indicated that this is about a self-insured program. I believe he is referring to the Culinary Union. I have a question for my colleague from Clark District No. 6. It sounds to me like the Union does not want to pay. They do not want to cover for out of network. Instead, they want the hospitals to take it in the shorts. To the Majority Leader, it does not sound like this is a consumer issue; this is a union issue.

SENATOR HORSFORD:

I will not debate my colleague from Clark District No. 5. It is time for us to stop pitting groups against groups and suggesting that measures before us are somehow implicating the members. This is a consumer issue that affects hundreds of thousands of people in the State of Nevada. This is not limited to any particular health plan. Some of the largest employers will be affected by Senate Bill No. 115 whether they are union or non-union. There are non-profit health plans, police, fire and school districts that will be affected by Senate Bill No. 115. I urge the members of this body whether you are new or whether you have been here a while, to put aside the ideological rhetoric and to focus on the measures of the bill. I just listed ten provisions why I support Senate Bill No. 115. I would urge the members to object on the merits of the bill and to not turn this into something that it is not.

Roll call on Senate Bill No. 115:

YEAS—11.

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

Senate Bill No. 115 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 227.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 867.

"SUMMARY—Revises provisions governing the financial administration of the Real Estate Division of the Department of Business and Industry. (BDR 54-982)"

"AN ACT relating to state financial administration; creating the Account for Real Estate Administration in the State General Fund; requiring money that is collected from the imposition of certain fees and charges to be deposited into the Account; requiring money in the Account to be used to defray certain costs and expenses of the Real Estate Division of the

Department of Business and Industry; **authorizing the Division to maintain a reserve in the Account under certain circumstances;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain fees, penalties and charges that are collected by the Real Estate Commission, the Commission of Appraisers of Real Estate, the Real Estate Administrator and the Real Estate Division of the Department of Business and Industry to be deposited into the State General Fund. (NRS 119.118, 645.140, 645C.240, 645D.140) Existing law also provides that certain money received by the Commission for Common-Interest Communities and Condominium Hotels, a hearing panel or the Division pursuant to certain laws concerning the regulation of community managers and certain personnel must be deposited in the Account for Common-Interest Communities and Condominium Hotels. (NRS 116A.220) **Section 1** of this bill creates the Account for Real Estate Administration in the State General Fund and requires the Administrator to administer the Account. **Sections 1-3, 7 and 9** of this bill require the Real Estate Commission, the Commission of Appraisers of Real Estate, the Administrator, the Commission for Common-Interest Communities and Condominium Hotels, a hearing panel and the Division to deposit money that is collected from the imposition of certain fees and charges into the Account and **sections 1-3** require money that is collected from the imposition of a fine or penalty be deposited into the State General Fund. **Sections 1-3, 7 and 9** also require the money in the Account to be used to defray certain costs and expenses of the Division until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out its duties. After the amount the Division is authorized to expend in a fiscal year has been deposited, all money received by the Division must be deposited into the State General Fund ~~[.]~~ **, except that the Division may maintain a reserve of not more than $500,000 which does not revert to the State General Fund and which the Division may use as authorized by the Legislature or the Interim Finance Committee.**

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

Section 1. NRS 645.140 is hereby amended to read as follows:

645.140 1. ***There is hereby created the Account for Real Estate Administration in the State General Fund. The Administrator shall administer the Account.***

2. All claims against the Account must be paid as other claims against the State are paid.

3. The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

4. Except as otherwise provided in this section ~~[,]~~ ***and NRS 645.314, 645.6058 and 645.842,*** all ~~[fees, penalties and charges]~~ ***money*** received by

the Division pursuant to ~~[NRS 645.410, 645.660 and 645.830]~~ ***this chapter*** must be deposited with the State Treasurer for credit to the ~~[State General Fund.]~~ ***Account and accounted for separately until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter*** ~~***[.]***~~ ***plus $500,000. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund*** ~~***[.]***~~ ***, except that the Division may maintain a reserve of not more than $500,000 in the Account which does not revert to the State General Fund and which may be used by the Division as authorized by the Legislature or the Interim Finance Committee.***

5. The Commission and the Division shall deposit any money collected from the imposition of any fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

6. The fees received by the Division ~~[~~:

~~(a) From the sale of publications, must be retained by the Division to pay the costs of printing and distributing publications.~~

~~(b) For~~] ***for*** examinations ~~[~~,] must be retained by the Division to pay the costs of the administration of examinations.

~~[→~~] Any surplus of the fees retained by the Division ***for the administration of examinations*** must be deposited with the State Treasurer for credit to the ~~[State General Fund.~~

~~2. Money for the support of the Division must be provided by direct legislative appropriation, and be paid out on claims as other claims against the State are paid.~~

~~3.]~~ ***Account.***

7. Each member of the Commission is entitled to receive:

(a) A salary of not more than $150 per day, as fixed by the Commission, while engaged in the business of the Commission; and

(b) A per diem allowance and travel expenses at a rate fixed by the Commission, while engaged in the business of the Commission. The rate must not exceed the rate provided for state officers and employees generally.

~~[4.]~~ ***8.*** While engaged in the business of the Commission, each employee of the Commission is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Commission. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 2. NRS 645C.240 is hereby amended to read as follows:

645C.240 1. Except as otherwise provided in ~~[subsections 2 and 3,]~~ ***this section,*** all ~~[fees, penalties and other charges]~~ ***money*** received by the

Division pursuant to this chapter must be deposited with the State Treasurer for credit to the ~~[State General Fund.~~

~~2.]~~ ***Account for Real Estate Administration created by NRS 645.140 and accounted for separately until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter*** ~~,]~~ ***plus $500,000. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund*** ~~,]~~ ***, except that the Division may maintain a reserve of not more than $500,000 in the Account which does not revert to the State General Fund and which may be used by the Division as authorized by the Legislature or the Interim Finance Committee.***

2. The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

3. The Commission and the Division shall deposit any money collected from the imposition of any fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

4. Fees received by the Division ~~[~~:

~~(a) From the sale of publications, must be retained by the Division to pay the costs of printing and distributing publications.~~

~~(b) For]~~ ***for*** examinations ~~[,]~~ must be retained by the Division to pay the costs of the administration of examinations.

~~[~~➥~~]~~ Any surplus of the fees retained by the Division ***for the administration of examinations*** must be deposited with the State Treasurer for credit to the ~~[State General Fund.~~

~~3.]~~ ***Account.***

5. The portion of the fees collected by the Division pursuant to NRS 645C.450 for the issuance or renewal of a certificate or license as a residential appraiser or the issuance or renewal of a certificate as a general appraiser which is used for payment of the registry fee to the ***Federal*** Financial Institutions Examination Council pursuant to 12 U.S.C. § 3338, must be retained by the Division for payment to the ***Federal*** Financial Institutions Examination Council.

~~[4. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.]~~

Sec. 3. NRS 645D.140 is hereby amended to read as follows:

645D.140 1. ~~[All fees, penalties and other charges]~~ ***Except as otherwise provided in this section, all money*** received by the Division

pursuant to this chapter must be deposited with the State Treasurer for credit to the ~~[~~State General Fund.

~~2. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.~~] ***Account for Real Estate Administration created by NRS 645.140 and accounted for separately until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter*** ~~***[.]***~~ ***plus $500,000. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund*** ~~***[.]***~~ ***, except that the Division may maintain a reserve of not more than $500,000 in the Account which does not revert to the State General Fund and which may be used by the Division as authorized by the Legislature or the Interim Finance Committee.***

2. The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

3. The Administrator and Division shall deposit any money collected from the imposition of any fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Administrator or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

Sec. 4. NRS 116.620 is hereby amended to read as follows:

116.620 1. Except as otherwise provided in this section and within the limits of ~~[~~legislative appropriations,~~]~~ ***money available for this purpose,*** the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 116A.210 is hereby amended to read as follows:

116A.210 1. Except as otherwise provided in this section and within the limits of ~~[~~legislative appropriations,~~]~~ ***money available for this purpose,*** the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 7. NRS 116A.220 is hereby amended to read as follows:

116A.220 1. Except as otherwise provided in subsection ~~[~~2,~~]~~ ***3,*** all money received by the Commission, a hearing panel or the Division pursuant to this chapter must be deposited ~~[~~into the Account for Common-Interest Communities and Condominium Hotels created pursuant to NRS 116.630.~~]~~ ***with the State Treasurer for credit to the Account for Real Estate Administration created by NRS 645.140 and accounted for separately until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter*** ~~[.]~~ ***plus $500,000. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund*** ~~[.]~~ ***, except that the Division may maintain a reserve of not more than $500,000 in the Account which does not revert to the State General Fund and which may be used by the Division as authorized by the Legislature or the Interim Finance Committee.***

2. ***The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.***

3. If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

~~[~~3. Money for the support of the Commission and Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.~~]~~

Sec. 8. NRS 116B.810 is hereby amended to read as follows:

116B.810 1. Except as otherwise provided in this section and within the limits of ~~[~~legislative appropriations,~~]~~ ***money available for this purpose,*** the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 9. NRS 119.118 is hereby amended to read as follows:

119.118 ~~[All]~~

1. Except as otherwise provided in NRS 119.150, all fees and charges received by the Division ~~[shall]~~ ***must*** be deposited in the ~~[General Fund in the State Treasury. Funds for the support of the Division shall be provided by direct legislative appropriation, and shall be paid out on claims as other claims against the State are paid.]~~ ***Account for Real Estate Administration created by NRS 645.140 and accounted for separately until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter*** ~~[.]~~ ***plus $500,000. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund*** ~~[.]~~ ***, except that the Division may maintain a reserve of not more than $500,000 in the Account which does not revert to the State General Fund and which may be used by the Division as authorized by the Legislature or the Interim Finance Committee.***

2. The money deposited into the Account must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

Sec. 10. NRS 645C.610 is hereby repealed.

Sec. 11. This act becomes effective upon passage and approval for the purpose of adopting any regulations that are necessary to carry out the provisions of this act and on ~~[October 1, 2011,]~~ **July 1, 2013,** for all other purposes.

TEXT OF REPEALED SECTION

645C.610 Disposition of money collected. If the Commission imposes a fine or a penalty or the Division collects an amount for the registration of an appraisal management company, the Commission or Division, as applicable, shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.

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 provides that all money received by the Real Estate Division must be deposited with the State Treasurer for credit to the Real Estate Administration account in the State General Fund, until the amount in the fiscal year reaches the amount authorized by

expenditure by the Division in that year plus $500,000 for reserve. Additionally the amendment provides that money collected in connection with the administration of the *Nevada Revised* Statutes (NRS) chapters addressing common interest communities and condominium hotels shall also be deposited into the account until the amount the Division has authorized to spend in a fiscal year has been deposited plus $500,000 for reserve. The amendment changes the effective date as well.

Amendment adopted.

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

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Assembly Bill No. 277, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 677 of the Senate be concurred in.

SHIRLEY BREEDEN	ELLIOT ANDERSON
MARK MANENDO	TERESA BENITEZ-THOMPSON
ELIZABETH HALSETH	JOHN HAMBRICK
Senate Conference Committee	*Assembly Conference Committee*

Senator Breeden moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 277.

Motion carried by a constitutional majority.

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 57.

The following Assembly amendment was read:

Amendment No. 735.

"SUMMARY— ~~[~~Expands the circumstances pursuant to which a court is authorized to issue~~]~~ **Establishes procedures for the Children's Advocate or his or her designee to obtain** certain warrants. (BDR ~~[~~11-289)"~~]~~ **38-289)**

"AN ACT relating to children; ~~[~~expanding the circumstances pursuant to which a court is authorized to issue~~]~~ **establishing procedures for the Children's Advocate or his or her designee to obtain, under certain circumstances,** a warrant to take physical custody of a **missing** child ~~[.]~~ **who was allegedly abducted;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

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

situation after holding a hearing at which both parties, the petitioner and the respondent, are given an opportunity to be heard. (NRS 125A.495)

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

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

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

Finally, existing law establishes the Office of Advocate for Missing or Exploited Children within the Office of the Attorney General and requires the Children's Advocate to carry out various duties relating to missing or exploited children in this State. (NRS 432.157) Section 2 of this bill authorizes the Children's Advocate or his or her designee, under certain circumstances, to apply to a court for a warrant to take physical custody of a missing child where there is probable cause to believe that the child has been abducted. Further, section 2 establishes the procedures for issuing such a warrant. Section 2 also defines the term "abduction" to include kidnapping, aiding and abetting kidnapping and the

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

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

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

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

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

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

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

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

~~[5.] 3. A proceeding under this section must be given priority on the court calendar.]~~ **(Deleted by amendment.)**

Sec. 2. Chapter ~~[125C]~~ **432** of NRS is hereby amended by adding thereto a new section to read as follows:

~~[~~ ~~*1. If, during any proceeding to establish custody of a child or enforce or modify a child custody determination, brought pursuant to this chapter or chapter 125 or 125A of NRS, it appears to the court upon a petition submitted by an aggrieved party or any other person having knowledge of the relevant facts]*~~

1. The Children's Advocate or his or her designee may apply to the court for a warrant to take physical custody of a missing child if, during an investigation of the missing child, it appears that there is probable cause to believe that : ~~[an]~~

(a) An act of abduction has been committed against the child ; and ~~[that the]~~

(b) The act of abduction was not committed ~~[without just cause, the court may issue a warrant to take physical custody of the child. A copy of a petition submitted pursuant to this subsection must be served upon the Children's Advocate appointed pursuant to NRS 432.157 before any hearing is held by the court pursuant to this section.]~~ to protect:

(1) The child from continued abuse or neglect or from a bona fide and imminent threat of abuse or neglect; or

(2) The person who allegedly abducted the child from continued domestic violence or a bona fide and imminent threat of domestic violence.

2. In filing the application for a warrant, the Children's Advocate and his or her designee acts on behalf of the court and not on behalf of any party.

3. The ~~[petition]~~ application must include, without limitation:

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

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

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

(b) The name of the person alleged to have committed the act of abduction of the child;

(c) The name of the person alleged to have possession of the child, if different from the person described in paragraph (b);

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

(e) A statement indicating whether, to the knowledge of the applicant after reasonable investigation under the circumstances, the child, the

person having legal custody of the child, the person alleged to have committed the act of abduction or ~~[the petitioner]~~ the person alleged to have possession of the child has been:

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

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

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

(f) A statement indicating ~~[whether any other]~~ which court , if any, has exercised jurisdiction over the custody or welfare of the child ~~[.]~~ ;

(g) A copy of the most recent child custody determination, if any, concerning the child, or if there is no such determination, a statement as to the legal basis for the custody of the child; and

(h) A declaration made under oath and penalty of perjury that every factual representation made in the application is true and correct to the best of the knowledge of the applicant.

~~[3.]~~ 4. The court may, in its discretion, supplement the allegations made in the ~~[petition]~~ application with the sworn testimony of the ~~[petitioner]~~ applicant at a hearing before the court. Any such testimony must be recorded and preserved in the records of the court.

~~[4.]~~ 5. If an application is filed pursuant to this section:

(a) The Children's Advocate or his or her designee may not be assessed a filing fee for the application; and

(b) Any proceedings regarding the application must be expedited by the court.

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

(a) Shall hold a hearing before it issues the warrant;

(b) Shall provide, or ensure that the Children's Advocate or his or her designee provides, notice of the hearing to the custodial parent, the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child;

(c) If the person alleged to have committed the act of abduction or, if different, the person alleged to have possession of the child is present at the hearing or otherwise appears at the hearing, may:

(1) Order such person to return the child in accordance with the determination of the court regarding the placement of the child; and

(2) Issue the warrant in accordance with subsection 9; and

(d) If the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child received notice but are not present at the hearing, do not otherwise appear at the hearing and do not submit statements to the court, may issue the warrant in accordance with subsection 9.

7. If the court determines that exigent circumstances exist in relation to the issuance of the warrant, including, without limitation, that the child is in imminent danger of being removed from this State or in imminent danger of serious physical harm, the court may issue the warrant ~~[described in subsection 6]~~ after an ex parte hearing. If the court issues the warrant after an ex parte hearing : ~~[, the court:]~~

(a) ~~[Shall]~~ The court shall afford the ~~[party]~~ custodial parent, the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child an opportunity to be heard at the earliest possible time after the warrant is executed, but not later than ~~[the next judicial day]~~ 48 hours after the warrant is executed unless a hearing ~~[on that date]~~ within that period is impossible. If a hearing ~~[on the next judicial day]~~ within that period is impossible, the court shall hold the hearing on the first judicial day possible.

(b) ~~[Shall provide, or cause the petitioner to provide,]~~ The Children's Advocate or his or her designee shall provide notice of the hearing to be held pursuant to paragraph (a) to the custodial parent, the ~~[party]~~ person alleged to have committed the act of abduction and ~~[all other interested parties.]~~ , if different, the person alleged to have possession of the child.

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

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

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

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

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

~~6.]~~ 8. The custodial parent of the child, the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child may:

(a) Appear at a hearing held pursuant to subsection 6 or 7 in person, by telephone or by video; and

(b) Submit written statements to the court electronically or by other means.

9. If, after a hearing held pursuant to subsection 6 or 7, as applicable, the court:

(a) Determines that there is probable cause to believe that an act of abduction has been committed against the child and that the act of abduction was not committed for the protection of the child or the person

who allegedly abducted the child as described in subsection 1, the court may issue a warrant to take physical custody of the child; or

(b) Finds by a preponderance of the evidence that the act of abduction of the child was committed for the protection of the child or the person who allegedly abducted the child as described in subsection 1, the court shall:

(1) Assume temporary emergency jurisdiction of the matter and shall enter a temporary emergency order for the custody of the child which is in the best interest of the child and which is sufficient to protect the safety and welfare of all interested persons; and

(2) Provide in the order a period of time which the court considers adequate and within which the person seeking the emergency order may obtain an initial or modified child custody determination regarding the child from a court that has jurisdiction to enter such an order.

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

(a) Must set forth findings of fact that establish probable cause for believing that an act of abduction occurred and that the act of abduction was [without just cause;] not committed for the protection of the child or the person who allegedly abducted the child as described in subsection 1;

(b) Must direct law enforcement officers to take physical custody of the child and deliver the child in accordance with the determination of the court regarding the placement of the child ; [pursuant to subsection 7;]

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

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

(e) Must order that the child be returned to his or her legal custodian unless such placement is not in the best interest of the child; and

(f) Is enforceable throughout this State.

[7. Based on the statements in the petition and the testimony provided at any hearing held by the court, the court shall provide for the placement of the child pending final relief.

8.] 11. As soon as reasonably practicable but not later than 24 hours after [executing] a law enforcement officer executes a warrant issued pursuant to this section, the [law enforcement officer who or the law enforcement agency which executed the warrant] Children's Advocate or his or her designee shall inform the court of the execution of the warrant.

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

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

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

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

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

12. As used in this section:

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

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

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

(d) "Court" means a court of this state authorized to establish, enforce or modify a child custody determination.

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

Sec. 2.5. **NRS 432.150 is hereby amended to read as follows:**

432.150 As used in NRS 432.150 to 432.220, inclusive, ***and section 2 of this act,*** unless the context otherwise requires:

1. "Clearinghouse" means the program established by the Attorney General pursuant to NRS 432.170.

2. "Director" means the Director of the Clearinghouse.

3. "Exploited child" means a person under the age of 18 years who has been:

(a) Used in the production of pornography in violation of the provisions of NRS 200.710;

(b) Subjected to sexual exploitation as defined in NRS 432B.110; or

(c) Employed or exhibited in any injurious, immoral or dangerous business or occupation in violation of the provisions of NRS 609.210.

4. "Missing child" means a person under the age of 18 years who has run away or is otherwise missing from the lawful care, custody and control of a parent or guardian.

Sec. 3. (Deleted by amendment.)

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

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 57.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 348.

The following Assembly amendment was read:

Amendment No. 663.

"SUMMARY— ~~[Eliminates limits on the amounts of certain property that is exempt from execution.]~~ **Makes various changes concerning the execution on property of a judgment debtor or defendant.** (BDR 2-779)"

"AN ACT relating to property; **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; providing a procedure to execute on property held in a safe-deposit box;** eliminating limits on the amounts of certain property that is exempt from execution; **exempting certain property from execution; 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. 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.

Existing law exempts from execution all money, benefits, privileges or immunities arising out of a policy of life insurance if the annual premium paid for the policy does not exceed $15,000 and exempts a portion of those insurance proceeds if the premium does exceed $15,000. (NRS 21.090) **Section** ~~11~~ 7 of this bill eliminates the $15,000 premium limit, allowing for a complete exemption from the execution of all money, benefits, privileges or immunities arising from a policy of life insurance. **Section 7 also 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.

Existing law exempts from execution any annuity benefits presently due and payable to an annuitant on a scheduled or periodic basis up to a total of $350 per month but allows a court to order certain just and proper payments from annuity benefits if those benefits exceed $350 per month. (NRS 687B.290) **Section ~~[2]~~ 15** of this bill eliminates the $350 monthly benefit exemption limit, allowing for a complete exemption from the execution of annuity benefits.

Section 16 of this bill repeals NRS 21.114 concerning the submission of sureties to the jurisdiction of the court because the requirement for an undertaking requiring a surety is removed in section 8.

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

Section 1. **Chapter 21 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.**

Sec. 2. ***A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of execution or garnishment.***

Sec. 3. 1. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, $2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:

(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;

(b) Veterans' benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;

(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;

(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;

(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;

(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;

(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;

(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;

(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;

(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;

(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;

(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;

(m) Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and

(n) Benefits provided pursuant to any other federal law.

2. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and the provisions of subsection 1 do not apply, $1,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor.

3. If a judgment debtor has more than one personal bank account with the financial institution 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 financial institution 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. 6. **NRS 21.075 is hereby amended to read as follows:**

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to ..... (name of person), the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court ~~[a notarized affidavit claiming the]~~ ***an executed claim of*** exemption. A copy of the ~~[affidavit]~~ ***claim of exemption*** must be served upon the sheriff ***, the***

garnishee and the judgment creditor within ~~[8]~~ ***20 calendar*** days after the notice of execution ***or garnishment*** is ~~[mailed.]~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property must be ~~[returned to you]~~ ***released by the garnishee or the sheriff*** within ~~[5]~~ ***9 judicial*** days after you ~~[file]~~ ***serve*** the ~~[affidavit]~~ ***claim of exemption upon the sheriff, garnishee and judgment creditor,*** unless ~~[you or the judgment creditor files a motion]~~ ***the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The ~~[motion]~~ ***objection to the claim of exemption and notice*** for the hearing to determine the issue of exemption must be filed within ~~[10]~~ ***8 judicial*** days after the ~~[affidavit claiming]~~ ***claim of*** exemption is ~~[filed.]~~ ***served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.*** The hearing to determine whether the property or money is exempt must be held within ~~[10]~~ ***7 judicial*** days after the ~~[motion]~~ ***objection to the claim of exemption and notice*** for the hearing is filed. ***You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.***

IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~ ***EXECUTED CLAIM OF EXEMPTION*** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

~~[Section 1.]~~ ***Sec. 7.*** NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire

departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance . ~~[, if the annual premium paid does not exceed $15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the $15,000 bears to the whole annual premium paid.]~~

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed $550,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A beneficial interest in the trust as defined in NRS 163.4145 if the interest has not been distributed;

(2) A remainder interest in the trust as defined in NRS 163.416 if the trust does not indicate that the remainder interest is certain to be distributed within 1 year after the date on which the instrument that creates the remainder interest becomes irrevocable;

(3) A discretionary interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(4) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been distributed or transferred;

(5) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been distributed or transferred;

(6) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been distributed or transferred; and

(7) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(dd) If a trust contains a spendthrift provision:

(1) A mandatory interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(2) Notwithstanding a beneficiary's right to enforce a support interest, a support interest in the trust as described in NRS 163.4185 if the interest has not been distributed; and

(3) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned

by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 8. **NRS 21.112 is hereby amended to read as follows:**

21.112 1. In order to claim exemption of any property levied on ~~[,]~~ ***pursuant to this section,*** the judgment debtor must, within ~~[8]~~ ***20 calendar*** days after the notice ~~[prescribed in NRS 21.075 is mailed,]~~ ***of a writ of execution or garnishment is served on the judgment debtor by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on,*** serve on the sheriff ***, the garnishee*** and ***the*** judgment creditor and file with the clerk of the court issuing the writ of execution ~~[an affidavit setting out]~~ ***or garnishment*** the judgment debtor's claim of exemption ~~[.]~~ ***which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within 20 calendar days after the date of each withholding of the judgment debtor's earnings.***

2. The clerk of the court shall provide the form for the ~~[affidavit.~~

~~2. When the affidavit is served, the sheriff shall release the property if the judgment creditor, within 5 days after written demand by the sheriff:~~

~~(a) Fails to give the sheriff an undertaking executed by two good and sufficient sureties which:~~

~~(1) Is in a sum equal to double the value of the property levied on; and~~

~~(2) Indemnifies the judgment debtor against loss, liability, damages, costs and attorney's fees by reason of the taking, withholding or sale of the property by the sheriff; or~~

~~(b) Fails to file a motion for a hearing to determine whether the property or money is exempt.~~

~~➥ The clerk of the court shall provide the form for the motion.~~

~~3. At the time of giving the sheriff the undertaking provided for in subsection 2, the judgment creditor shall give notice of the undertaking to the judgment debtor.~~

~~4.]~~ ***claim of exemption and shall further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions, instructions concerning the manner in which the property must be released to the judgment debtor if no objection to the claim of exemption is filed and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court.***

3. An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.

4. If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served.

5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property ~~[,]~~ where ~~[:~~

~~(a) No affidavit claiming]~~ ***a claim of*** exemption is ***not*** served on the sheriff ~~. [; or~~

~~(b) An affidavit claiming exemption is served on the sheriff, but the sheriff fails to release the property in accordance with this section.~~

~~5.]~~ ***6.*** Unless the court continues the hearing for good cause shown, the hearing ***on an objection to a claim of exemption*** to determine whether the property or money is exempt must be held within ~~[10]~~ ***7 judicial*** days after the ~~[motion]~~ ***objection to the claim and notice*** for ~~[the]~~ ***a*** hearing is filed.

~~[6. The judgment creditor shall give the judgment debtor at least 5 days' notice of the hearing.]~~ ***The judgment debtor has the burden to prove that he or she is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.***

7. If the sheriff or a garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the property is levied on, the garnishee must release the property to the sheriff or, if the property is held by the sheriff, the sheriff must release the property to the judgment creditor.

8. At any time after:

(a) An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.

(b) An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.

9. The provisions of this section do not limit or prohibit any other remedy provided by law.

10. In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.

11. A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim.

Sec. 9. **Chapter 31 of NRS is hereby amended by adding thereto a new section to read as follows:**

A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of attachment.

Sec. 10. **NRS 31.045 is hereby amended to read as follows:**

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

➥ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, ... (name of person), alleges that you owe the plaintiff money. The plaintiff has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment

of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to the indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk ~~[a notarized affidavit claiming the]~~ ***an executed claim of*** exemption. A copy of the ~~[affidavit]~~ ***claim of exemption*** must be served upon the sheriff ***, the garnishee*** and the judgment creditor within ~~[8]~~ ***20 calendar*** days after the notice of execution ***or garnishment*** is ~~[mailed.]~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property must be ~~[returned to you]~~ ***released by the garnishee or the sheriff*** within ~~[5]~~ ***9 judicial*** days after you ~~[file]~~ ***serve*** the ~~[affidavit]~~ ***claim of exemption upon the sheriff, garnishee and judgment creditor,*** unless the ~~[judgment creditor files a motion]~~ ***sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. ***The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.*** The

hearing must be held within ~~[10]~~ ***7 judicial*** days after the ~~[motion]~~ ***objection to the claim of exemption and notice*** for a hearing is filed**.** ***You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.***

IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~ ***EXECUTED CLAIM OF EXEMPTION*** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 11. **NRS 31.290 is hereby amended to read as follows:**

31.290 1. The interrogatories to ***be submitted with any writ of execution, attachment or garnishment to*** the garnishee may be in substance as follows:

INTERROGATORIES

Are you in any manner indebted to the defendants .....

.....

or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer: .....

.....

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount ***of disposable earnings, as defined in NRS 31.295, that*** each defendant presently earns during a pay period. ***State the minimum amount of disposable earnings that is exempt from this garnishment, which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938,***

29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week of the pay period, after deducting any amount required by law to be withheld.

Calculate the attachable amount as follows:

(Check one of the following) The employee is paid:

[A] Weekly: [B] Biweekly: [C] Semimonthly: [D] Monthly:

(1) Gross Earnings	***$***
(2) Deductions required by law (not including child support)	***$***
(3) Disposable Earnings [Subtract line 2 from line 1]	***$***
(4) Federal Minimum Wage	***$***
(5) Multiply line 4 by 50	***$***
(6) Complete the following directions in accordance with the letter selected above:	
[A] Multiply line 5 by 1	***$***
[B] Multiply line 5 by 2	***$***
[C] Multiply line 5 by 52 and then divide by 24	***$***
[D] Multiply line 5 by 52 and then divide by 12	***$***
(7) Subtract line 6 from line 3	***$***

This is the attachable earnings. This amount must not exceed 25% of the disposable earnings from line 3.

Answer:.....

.....

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in which .....is interested? If so, state its value, and state fully all particulars.

Answer:.....

.....

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to ..... or in which .....is interested, and now in the possession or under the control of others? If so, state particulars.

Answer:.....

.....

Are you a financial institution with a personal account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in section 3 of this act, $2,000 or the entire amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in section 3 of this act or, if no such deposit has been made, $1,000 or the

entire amount in the account, whichever is less, is not subject to garnishment. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

Answer: .....

.....

State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer: .....

.....

.....

Garnishee

I (insert the name of the garnishee), ~~[do solemnly swear (or affirm)]~~ ***declare under penalty of perjury*** that the answers to the foregoing interrogatories by me subscribed are true ~~.[.]~~ ***and correct.***

.....

(Signature of garnishee)

~~[SUBSCRIBED and SWORN to before me this .... day of the month of .... of the year ....]~~

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and submit the answers to the sheriff within the time required by the writ. ***The garnishee shall submit his or her answers to the judgment debtor within the same time.*** If the garnishee fails to do so, the garnishee shall be deemed in default.

Sec. 12. **NRS 31.296 is hereby amended to read as follows:**

31.296 1. Except as otherwise provided in subsection 3, if the garnishee indicates in the garnishee's answer to garnishee interrogatories that the garnishee is the employer of the defendant, the writ of garnishment served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of $3 per pay period, not to exceed $12 per month, for each withholding made of the defendant's earnings. This subsection does not apply to the first pay period in which the defendant's earnings are garnished.

3. If the defendant's employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff's attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

4. The judgment creditor who caused the writ of attachment to issue pursuant to NRS 31.013 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days

which sets forth, without limitation, the amount owed by the judgment debtor, the costs and fees allowed pursuant to NRS 18.160 and any accrued interest and costs on the judgment. The report must advise the judgment debtor of the judgment debtor's right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.

Sec. 13. **NRS 258.230 is hereby amended to read as follows:**

258.230 Except with respect to the ~~[fee]~~ ***fees*** described in ~~[paragraph]~~ ***paragraphs (a) and*** (d) of subsection 2 of NRS 258.125, all fees prescribed in this chapter shall be payable in advance, if demanded. If a constable shall not have received any or all of his or her fees, which may be due the constable for services rendered by him or her in any suit or proceedings, the constable may have execution therefor in his or her own name against the party or parties from whom they are due, to be issued from the court where the action is pending, upon the order of the justice of the peace or court upon affidavit filed.

Sec. 14. **NRS 612.710 is hereby amended to read as follows:**

612.710 Except as otherwise provided in NRS 31A.150:

1. Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this chapter is void, except for a voluntary assignment of benefits to satisfy an obligation to pay support for a child.

2. Benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any person ~~[, if they are not mingled with other money of the recipient,]~~ are exempt from any remedy for the collection of all debts, except debts incurred for necessaries furnished to the person or the person's spouse or dependents during the time when the person was unemployed.

3. Any other waiver of any exemption provided for in this section is void.

~~[Sec. 2.]~~ ***Sec. 15.*** NRS 687B.290 is hereby amended to read as follows:

687B.290 1. The benefits, rights, privileges and options which under any annuity contract issued prior to or after January 1, 1972, are due or prospectively due the annuitant shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers or options, nor shall creditors be allowed to interfere with or terminate the contract, except ~~[:~~

~~(a) As~~ ***as*** to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payment to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable

the insurer to ascertain the annuity contract, the annuitant and the payment sought to be avoided on the ground of fraud.

~~[(b) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he or she is an annuitant shall not at any time exceed $350 per month for the length of time represented by such installments, and such periodic payments in excess of $350 per month shall be subject to garnishee execution to the same extent as are wages and salaries.~~

~~(c) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he or she is an annuitant, at any time exceed payment at the rate of $350 per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and the family of the judgment debtor, if dependent upon the judgment debtor, as well as any payments required to be made by the annuitant to other creditors under prior court orders.]~~

2. If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable or subject to commutation, and ~~[if the benefits are payable periodically or at stated times,]~~ the same exemptions and exceptions contained in this section for the annuitant shall apply with respect to such beneficiary or assignee.

Sec. 16. **NRS 21.114 is hereby repealed.**

TEXT OF REPEALED SECTION

21.114 Sureties: Submission to jurisdiction of court; exceptions to sufficiency and justification.

1. By entering into any undertaking provided for in NRS 21.112, the sureties thereunder submit themselves to the jurisdiction of the court and irrevocably appoint the clerk of the court as agent upon whom any papers affecting liability on the undertaking may be served. Liability on such undertaking may be enforced on motion to the court without the necessity of an independent action. The motion and such reasonable notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

2. Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking given in other cases under titles 2 and 3 of NRS. If they, or others in their place, fail to justify at the time and place appointed, the sheriff must release the property; but if no exception is taken within 5 days after notice of receipt of the undertaking, the judgment debtor shall be deemed to have waived any and all objections to the sufficiency of the sureties.

Senator Wiener moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 348.

Motion carried.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved that Assembly Bill No. 572 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. 313.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 954.

"SUMMARY—Revises certain provisions relating to energy. (BDR 58-236)"

"AN ACT relating to energy; requiring the Nevada Energy Commissioner to prescribe minimum standards of energy efficiency for certain electrical devices; authorizing the Commissioner to charge and collect a fee from manufacturers of certain electrical devices for the costs of any tests to confirm that such electrical devices comply with the minimum standards of energy efficiency prescribed by the Commissioner; authorizing the Commissioner to impose administrative fines; requiring the Public Utilities Commission of Nevada, in evaluating a 3-year plan submitted by an electric utility, to ~~[give preference to]~~ **consider** certain measures and sources of electricity; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Nevada Energy Commissioner to prepare a comprehensive state energy plan which includes the promotion of the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy. (NRS 701.190) Existing law also requires the Commissioner to adopt regulations for the conservation of energy in buildings and to adopt regulations establishing a minimum standard of energy efficiency for general purposes lights. (NRS 701.220, 701.260) **Section 1** of this bill requires the Commissioner to adopt regulations prescribing a minimum standard of energy efficiency for portable light fixtures and televisions and authorizes the Commissioner to prescribe a minimum standard of energy efficiency for any other electrical devices. In addition, **section 1** requires the Commissioner to adopt regulations establishing the procedures by which a manufacturer of an electrical device is required to: (1) demonstrate that the electrical device complies with the minimum standard of energy efficiency; (2) identify that the device complies with the minimum standard of energy efficiency; and (3) make available to the Commissioner samples of the device for the purpose of conducting tests to confirm that the device complies with the minimum standard of energy

efficiency. **Section 1** authorizes the Commissioner to charge and collect a fee from the manufacturer of an electrical device for the cost of conducting tests to confirm that the device complies with the minimum standard of energy efficiency. **Section 1** also authorizes the Commissioner to impose an administrative fine on any manufacturer of an electrical device who does not comply with **section 1** or the regulations adopted pursuant thereto. Finally, **section 1** requires the Commissioner to make available to the public information concerning the minimum standards of energy efficiency prescribed by the Commissioner. **Section 5** of this bill requires the Commissioner to adopt the regulations prescribing the minimum standards of energy efficiency on or before October 1, 2012.

~~[Section 3 of this bill requires, rather than authorizes, the Commission,]~~ **Existing law authorizes the Public Utilities Commission of Nevada to give preference to certain energy efficiency measures and sources of energy** in evaluating the adequacy of a 3-year plan submitted by an electric utility ~~. [, to give preference to those]~~ **(NRS 704.746) Section 3 of this bill requires the Commission, in evaluating such a plan, to consider all reasonable** energy efficiency measures, purchasing decisions and sources of energy identified in the plan which provide the greatest economic and environmental benefits to the State and which provide levels of service that are adequate and reliable.

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 7, the Commissioner:

(a) Shall adopt regulations prescribing a minimum standard of energy efficiency for:

(1) Portable light fixtures; and

(2) Televisions.

(b) May adopt regulations prescribing a minimum standard of energy efficiency for any electrical device other than the electrical devices set forth in paragraph (a).

2. In adopting regulations pursuant to subsection 1, the Commissioner shall prescribe the minimum standard of energy efficiency for an electrical device based upon a determination that the standard of energy efficiency will serve to promote energy conservation in this State and will be cost-effective for consumers who purchase and use such electrical devices.

3. A regulation adopted pursuant to subsection 1 which establishes or amends a minimum standard of energy efficiency for an electrical device must not become effective until 1 year after the date on which the regulation is adopted.

4. The Commissioner shall adopt regulations establishing the procedures by which a manufacturer of an electrical device for which the

Commissioner has prescribed a minimum standard of energy efficiency pursuant to subsection 1 shall:

(a) Demonstrate that the electrical device complies with the minimum standard of energy efficiency prescribed by the Commissioner;

(b) Identify conspicuously on the electrical device and on any packaging for the electrical device that the device complies with the minimum standard of energy efficiency prescribed by the Commissioner; and

(c) Make available to the Commissioner samples of the electrical device for the purpose of conducting tests to confirm that the device complies with the minimum standard of energy efficiency prescribed by the Commissioner.

5. The Commissioner may:

(a) Charge and collect a fee from the manufacturer of an electrical device for the cost of any test conducted by the Commissioner in accordance with the regulations adopted pursuant to paragraph (c) of subsection 4; and

(b) Impose an administrative fine on any manufacturer of an electrical device who does not comply with the provisions of this section or any regulation adopted pursuant thereto.

6. The Commissioner shall make available to the public, free of charge, information concerning the minimum standards of energy efficiency for electrical devices prescribed by the Commissioner pursuant to this section and shall publish the information on the Internet website of the Commissioner.

7. The regulations adopted pursuant to this section do not apply to:

(a) New electrical devices manufactured in this State and sold outside of this State;

(b) New electrical devices manufactured outside of this State and sold at wholesale in this State for final retail sale and use outside of this State; or

(c) New electrical devices designed expressly for installation and use in a recreational vehicle as that term is defined in NRS 482.101.

8. As used in this section, "portable light fixture" means a movable electric light fixture that uses a plug-in power cord.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 704.746 is hereby amended to read as follows:

704.746 1. After a utility has filed its plan pursuant to NRS 704.741, the Commission shall convene a public hearing on the adequacy of the plan.

2. The Commission shall determine the parties to the public hearing on the adequacy of the plan. A person or governmental entity may petition the Commission for leave to intervene as a party. The Commission must grant a petition to intervene as a party in the hearing if the person or entity has relevant material evidence to provide concerning the adequacy of the plan. The Commission may limit participation of an intervener in the hearing to avoid duplication and may prohibit continued participation in the hearing by an intervener if the Commission determines that continued participation will

unduly broaden the issues, will not provide additional relevant material evidence or is not necessary to further the public interest.

3. In addition to any party to the hearing, any interested person may make comments to the Commission regarding the contents and adequacy of the plan.

4. After the hearing, the Commission shall determine whether:

(a) The forecast requirements of the utility are based on substantially accurate data and an adequate method of forecasting.

(b) The plan identifies and takes into account any present and projected reductions in the demand for energy that may result from measures to improve energy efficiency in the industrial, commercial, residential and energy producing sectors of the area being served.

(c) The plan adequately demonstrates the economic, environmental and other benefits to this State and to the customers of the utility, associated with the following possible measures and sources of supply:

(1) Improvements in energy efficiency;

(2) Pooling of power;

(3) Purchases of power from neighboring states or countries;

(4) Facilities that operate on solar or geothermal energy or wind;

(5) Facilities that operate on the principle of cogeneration or hydrogeneration;

(6) Other generation facilities; and

(7) Other transmission facilities.

5. The Commission ~~[may]~~ ***shall*** ~~[give preference to the]~~ ***consider all practicable*** measures and sources of supply set forth in paragraph (c) of subsection 4 that:

(a) Provide the greatest economic and environmental benefits to the State;

(b) Are consistent with the provisions of this section; and

(c) Provide levels of service that are adequate and reliable.

6. The Commission shall:

(a) Adopt regulations which determine the level of preference to be given to ~~[those]~~ ***any*** measures ~~[and]~~ ***or*** sources of supply ~~[;]~~ ***considered by the Commission pursuant to subsection 5;*** and

(b) Consider the value to the public of using water efficiently when ~~[it is]~~ determining ~~[those preferences.]~~ ***the preference to be given to any measures or sources of supply considered by the Commission pursuant to subsection 5.***

7. The Commission shall:

(a) Consider the level of financial commitment from developers of renewable energy projects in each renewable energy zone, as designated pursuant to subsection 2 of NRS 704.741; and

(b) Adopt regulations establishing a process for considering such commitments , including, without limitation, contracts for the sale of energy, leases of land and mineral rights, cash deposits and letters of credit.

Sec. 4. (Deleted by amendment.)

Sec. 5. The Nevada Energy Commissioner shall adopt the regulations required by section 1 of this act on or before October 1, 2012.

Sec. 6. 1. This section and sections 1 and 5 of this act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

2. Sections 2, 3 and 4 of this act become effective on January 1, 2012.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 954 requires the Public Utilities Commission of Nevada (PUCN) to consider all practical measures and sources of supply in a utility's triennial integrated resource plan. PUCN shall adopt regulations which determine the level of preference to give any measures or resources considered by the PUCN in connection with the triennial plan.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Leslie moved that Assembly Bill No. 493 be placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 341.

Bill read third time.

Roll call on Senate Bill No. 341:

YEAS—10.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, Lee, McGinness, Rhoads, Roberson, Settelmeyer—11.

Senate Bill No. 341 having failed to receive a constitutional majority, Mr. President declared it lost.

Senate Bill No. 347.

Bill read third time.

Roll call on Senate Bill No. 347:

YEAS—21.

NAYS—None.

Senate Bill No. 347 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 370.

Bill read third time.

Roll call on Senate Bill No. 370:

YEAS—21.

NAYS—None.

Senate Bill No. 370 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 425.

Bill read third time.

Roll call on Senate Bill No. 425:

YEAS—21.

NAYS—None.

Senate Bill No. 425 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 485.

Bill read third time.

Roll call on Senate Bill No. 485:

YEAS—21.

NAYS—None.

Senate Bill No. 485 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 486.

Bill read third time.

Roll call on Senate Bill No. 486:

YEAS—20.

NAYS—Gustavson.

Senate Bill No. 486 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that for the remainder of this Legislative Session all bills and resolutions that have been passed or adopted be immediately transmitted to the Assembly, time permitting.

Motion carried.

Senator Horsford moved that Senate Bills Nos. 197, 360, 371, 427, 428, 473, be placed at the top of the General File.

Motion carried.

Senator Horsford moved that Assembly Bills Nos. 579, 580 be placed on General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 197.

Bill read third time.

The following amendment was proposed by the Committee on Education:

Amendment No. 942.

"SUMMARY—Revises provisions governing the system of governance and oversight of public education. (BDR 34-94)"

"AN ACT relating to education; ~~[creating the Nevada Commission on K-12 Public Education and prescribing the membership, duties and powers of the Commission; repealing the]~~ **removing provisions creating a 10-member elected** State Board of Education**_;** ~~[and providing for the election and appointment of Commissioners of the Nevada Commission on K-12 Public Education;]~~ **providing for the election and appointment of members to the State Board;** revising the qualifications and duties of the Superintendent of Public Instruction; revising the components of the statewide plan to improve the academic achievement of pupils; ~~[repealing the Commission on Educational Excellence, the Commission on Educational Technology and the Council to Establish Academic Standards for Public Schools and transferring certain duties of those Commissions and the Council; revising the membership and duties of the Commission on Professional Standards in Education; repealing the Statewide Council for the Coordination of the Regional Training Programs and transferring certain duties of the Council to the Superintendent of Public Instruction; revising provisions governing the budgets of the]~~ **revising provisions governing the** regional training programs for the professional development of teachers and administrators; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Department of Education which consists of the State Board of Education, the State Board for Career and Technical Education and the Superintendent of Public Instruction. (NRS 385.010) ~~[Commencing on January 1, 2013, sections 4-7 of this bill change the name of the State Board of Education to the Nevada Commission on K-12 Public Education which is composed of Commissioners of Education.]~~ **Sections 6 and 55** of this bill remove the provisions creating the 10-member elected State Board **of Education** and provides for the election and appointment of ~~[Commissioners to the Nevada Commission on K-12 Public Education,]~~ **members** whose terms will commence on January ~~[1,]~~ **8,** 2013.

Existing law creates the Commission on Educational Excellence, **the Advisory Council on Parental Involvement,** the Commission on Educational Technology**_,** ~~[and]~~ the Council to Establish Academic Standards for Public Schools**_** ~~[. Sections 54 and 56 of this bill repeal these Commissions and the Council effective July 1, 2011. Sections 2, 15-19, 24-26, 28 and 30-35 of this bill transfer certain duties and responsibilities formerly assigned to those entities to the Department and the State Board. Sections 3, 21 and 27 of this bill authorize the Department to appoint advisory committees to assist the Department with those newly transferred duties and responsibilities.]~~ **, the Commission on Professional Standards in Education, the regional training programs for the professional**

development of teachers and administrators and the Statewide Council for the Coordination of the Regional Training Programs. (NRS 385.3784, 385.610, 388.790, 389.510, 391.011, 391.512, 391.516) Sections 3.3, 3.5, 20, 27.5, 38.3 and 38.5 of this bill provide that the Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of those commissions, councils and programs are carried out by the commissions, councils and programs successfully.

Under existing law, the Superintendent of Public Instruction is appointed by the State Board to a term of 3 years. (NRS 385.150) Section 8.5 of this bill provides for the appointment of the Superintendent by the Governor from a list of candidates submitted by the State Board. Section 8.5 further provides that the Superintendent serves at the pleasure of the Governor and is in the Executive Department of State Government.

Sections 9-11 of this bill revise the qualifications and duties of the Superintendent of Public Instruction to: (1) require the Superintendent to possess the knowledge and ability to carry out the duties of the position; (2) provide that the Superintendent is the educational leader for the system of K-12 public education in this State; (3) require the Superintendent to enforce the observations of statutes and regulations governing K-12 public education; and (4) request a plan of corrective action if the Superintendent determines that a school district or charter school has not complied with those statutes and regulations.

Section 12 of this bill revises the plan to improve the academic achievement of pupils enrolled in public schools, to require the State Board, in developing the plan, to establish clearly defined goals and benchmarks for improving the achievement of pupils and prescribes those goals and benchmarks.

~~[Existing law establishes the Commission on Professional Standards in Education. (NRS 391.011) Sections 39 and 57 of this bill revise the membership of the Commission, whose new terms will commence on January 1, 2012.]~~ **Section 37** of this bill requires the Commission **on Professional Standards in Education** to submit an annual report to the State Board and the Legislative Committee on Education describing the status of the regulations adopted by the Commission and a work plan designating the proposed activities of the Commission during the next year.

Existing law creates three regional training programs for the professional development of teachers and administrators ~~[, the Statewide Council for the Coordination of the Regional Training Programs and a governing body of each regional training program. (NRS 391.500-391.556) Sections 45 and 54 of this bill remove the provisions creating the Statewide Council and transfers certain duties and responsibilities to the Superintendent of Public Instruction. Sections 38 and 47 of this bill revise the manner in which the budgets of the regional training programs are submitted, approved and revised to require the governing body of a regional training program to~~

~~submit a proposed budget for the program to the Superintendent of Public Instruction for inclusion in the biennial budget of the Department.]~~ **and designates each of the 17 county school districts within the jurisdiction of one of the regional training programs. (NRS 391.512) Section 47.5 of this bill removes the Churchill County School District from the jurisdiction of the Northeastern Nevada Regional Training Program, for which the Elko County School District serves as the fiscal agent, and places that School District within the jurisdiction of the Northwestern Nevada Regional Training Program, for which the Washoe County School District serves as the fiscal agent. Section 58.7 of this bill requires the Elko County School District to transfer from the Northeastern Nevada Regional Training Program to the Washoe County School District for the Northwestern Nevada Regional Training Program an appropriate sum of money to reflect the addition of the Churchill County School District to the Northwestern Nevada Regional Training Program. Section 38.7 of this bill requires the governing body of each regional training program for the professional development of teachers and administrators to establish an evaluation system for the teachers and other licensed educational personnel who participate in the program and prescribes the requirements of that evaluation system.**

Section 23 of Assembly Bill No. 579 of this session provides for the funding of the regional training programs through the three school districts that serve as fiscal agents for the regional training programs. Section 53.5 of this bill repeals section 23 of Assembly Bill No. 579. Section 54.5 of this bill instead requires the Department of Education to transfer those sums to: (1) the three school districts that serve as fiscal agents for the regional training programs for the continued provision of professional development through their respective regional training programs; and (2) the Clark County School District and the Washoe County School District for the purchase of professional development for the teachers and administrators employed by those School Districts, which may include the purchase of professional development through the regional training program. Section 54.5 also requires the Clark County School District and the Washoe County School District to provide written notice to the regional training program on or before August 1, 2011, for the 2011-2012 Fiscal Year, and March 1, 2012, for the 2012-2013 Fiscal Year if the School District will purchase professional development through the regional training program.

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

Section 1. Chapter 385 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2 and 3]~~ **3.3 and 3.5** of this act.

Sec. 2. **(Deleted by amendment.)**

Sec. 3. **(Deleted by amendment.)**

Sec. 3.3. ***The Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of the Commission set forth in NRS 385.3781 to 385.379, inclusive, are carried out by the Commission successfully.***

Sec. 3.5. ***The Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of the Advisory Council set forth in NRS 385.600, 385.610 and 385.620 are carried out by the Advisory Council successfully.***

Sec. 4. **(Deleted by amendment.)**

Sec. 5. **(Deleted by amendment.)**

Sec. 6. NRS 385.021 is hereby amended to read as follows:

385.021 1. The State Board ~~*[Nevada Commission on K-12 Public Education]*~~ ***is hereby created. The*** ~~*[Nevada Commission on K-12 Public Education]*~~ ***State Board*** consists of ~~[10 members]~~ ***the following voting*** ~~*[Commissioners:]*~~ ***members:***

(a) One ~~*[Commissioner]*~~ ***member*** elected by the registered voters ~~[within the districts]~~ ***of each congressional district*** described in NRS ~~[385.0225 to 385.0265,]~~ ***304.060 to 304.120,*** inclusive ~~[.~~

~~2.]~~ ***;***

(b) One ~~*[Commissioner]*~~ ***member appointed by the Governor;***

(c) One ~~*[Commissioner]*~~ ***member appointed by the Governor, nominated by the Majority Leader of the Senate; and***

(d) One ~~*[Commissioner]*~~ ***member appointed by the Governor, nominated by the Speaker of the Assembly.***

2. In addition to the voting ~~*[Commissioners]*~~ ***members described in subsection 1, the*** ~~*[Nevada Commission on K-12 Public Education]*~~ ***State Board consists of the following four nonvoting*** ~~*[Commissioners:]*~~ ***members:***

(a) One ~~*[Commissioner]*~~ ***member appointed by the Governor who is a member of a board of trustees of a school district*** ~~*[appointed]*~~ ***, nominated by the Nevada Association of School Boards;***

(b) One ~~*[Commissioner]*~~ ***member appointed by the Governor who is the superintendent of schools of a school district*** ~~*[appointed]*~~ ***, nominated by the Nevada Association of School Superintendents;***

(c) One ~~*[Commissioner]*~~ ***member appointed by the Governor who represents the Nevada System of Higher Education*** ~~*[appointed]*~~ ***, nominated by the Board of Regents of the University of Nevada; and***

(d) One ~~*[Commissioner]*~~ ***member appointed by the Governor who is a pupil enrolled in a public school in this State*** ~~*[appointed]*~~ ***, nominated by the Nevada Association of Student Councils or its successor organization*** ~~*[. In making the appointments, the Nevada Association of Student Councils or its successor organization shall solicit recommendations from its members, the members of]*~~ ***and in consultation with the Nevada Youth Legislature*** ~~*[and the members of any other statewide youth organizations that wish to submit recommendations.]*~~ ***. After the initial term, the term of the member***

appointed pursuant to this paragraph commences on June 1 and expires on May 31 of the following year.

3. Each **member of the State Board** ~~*[Commissioner]*~~ ***elected pursuant to paragraph (a) of subsection 1*** must be a ~~[resident]~~ ***qualified elector*** of the district from which that **member** ~~*[Commissioner]*~~ is elected **.** ~~[~~.

~~3. At the general election in 2002, and every 4 years thereafter, one member of the State Board must be elected for a term of 4 years from Districts Numbers 2, 5, 6 and 10.]~~

4. ~~[At the general election in 2004, and every 4 years thereafter, one member of the State Board must be elected for a term of 4 years from Districts Numbers 1, 3, 4, 7, 8 and 9.]~~ ***Each*** ~~*[Commissioner]*~~ ***member appointed pursuant to paragraphs (b), (c) and (d) of subsection 1 and each*** ~~*[Commissioner]*~~ ***member appointed pursuant to subsection 2 must be a resident of this State.***

5. ***The*** ~~*[appointing authorities]*~~ ***Governor shall ensure that the*** ~~*[Commissioners]*~~ ***members appointed pursuant to paragraphs (b), (c) and (d) of subsection 1 represent the geographic diversity of this State and that:***

(a) One ~~*[Commissioner]*~~ ***member is a teacher at a public school*** ~~*[.]*~~ ***selected from a list of three candidates provided by the Nevada State Education Association.***

(b) One ~~*[Commissioner]*~~ ***member is the parent or legal guardian of a pupil enrolled in a public school.***

(c) One ~~*[Commissioner]*~~ ***member is a person active in a private business or industry of this State.***

6. After the initial terms, each ~~*[Commissioner:]*~~ ***member:***

(a) Elected pursuant to paragraph (a) of subsection 1 serves a term of 4 years. ~~*[Such Commissioner]*~~ ***A member may be elected to serve not more than three terms but may be appointed to serve pursuant to paragraph (b), (c) or (d) of subsection 1 or subsection 2 after service as an elected*** ~~*[Commissioner,]*~~ ***member, notwithstanding the number of terms the*** ~~*[Commissioner]*~~ ***member served as an elected*** ~~*[Commissioner.]*~~ ***member.***

(b) Appointed pursuant to paragraphs (b), (c) and (d) of subsection 1 serves a term of 2 years. ~~*[Commissioners]*~~ ***A member may be reappointed for additional terms of 2 years in the same manner as the original appointments.***

(c) Appointed pursuant to subsection 2 serves a term of 1 year. ~~*[Commissioners]*~~ ***A member may be reappointed for additional terms of 1 year in the same manner as the original appointments.***

7. If a vacancy occurs ~~[on the State Board,]~~ ***during the term of:***

(a) A ~~*[Commissioner]*~~ ***member who was elected pursuant to paragraph (a) of subsection 1,*** the Governor shall appoint a **member** ~~*[Commissioner]*~~ to fill the vacancy until the next general election, at which election a **member** ~~*[Commissioner]*~~ must be chosen for the balance of the unexpired term. The appointee must be a ~~[resident]~~ ***qualified elector*** of the district where the vacancy occurs.

~~[6. No member of the State Board may be elected to the office more than three times.]~~

(b) A voting ~~[Commissioner]~~ member appointed pursuant to paragraph (b), (c) or (d) of subsection 1 or a nonvoting ~~[Commissioner]~~ member appointed pursuant to subsection 2, the vacancy must be filled in the same manner as the original appointment for the remainder of the unexpired term.

Sec. 7. NRS 385.040 is hereby amended to read as follows:

385.040 1. The **State Board** ~~[of Education may]~~ ~~[Nevada Commission on K-12 Public Education]~~ *shall* hold at least ~~[four]~~ ***9 but not more than 12*** regular meetings annually at the state capital. The Secretary shall call all regular meetings.

2. ***At least one of the meetings of the ~~[Nevada Commission on K-12 Public Education]~~ State Board must include a discussion with the superintendents of the school districts, presidents of the boards of trustees of the school districts, representatives of the governing bodies of charter schools, representatives of the governing bodies of university schools for profoundly gifted pupils and the chairs of all boards, commissions and councils in the public education system in this State to discuss:***

(a) The goals and benchmarks of the State for improving the academic achievement of pupils enrolled in public schools;

(b) The effects of those goals and benchmarks on the school districts and public schools;

(c) The status of the school districts and public schools in achieving the goals and benchmarks; and

(d) The status of any corrective actions imposed on a school district or public school.

3. The ***State*** **Board** ~~[Nevada Commission on K-12 Public Education]~~ may hold special meetings at such other times and places as the ***State*** **Board** ~~[Commission]~~ may direct. The Secretary shall call special meetings upon the written request of the President or any three ***voting*** **members** ~~[voting Commissioners.]~~ **of the *State* Board.**

~~[3.]~~ ***4.*** A majority of the ~~[Board]~~ ***voting ~~[Commissioners]~~ members of the ~~[Nevada Commission on K-12 Public Education]~~ State Board*** constitutes a quorum for the transaction of business, and no action of the ***State*** **Board** ~~[Commission]~~ is valid unless that action receives, at a legally called meeting, the approval of a majority of all ~~[board]~~ ***voting*** **members.** ~~[voting Commissioners.]~~

Sec. 8. (Deleted by amendment.)

Sec. 8.5. **NRS 385.150 is hereby amended to read as follows:**

385.150 ~~[1. The State Board shall appoint the]~~ ***The*** Superintendent of Public Instruction ~~[for a term of 3 years. The State Board may remove the Superintendent of Public Instruction from office for inefficiency, neglect of duty, malfeasance in office or for other just cause.]~~ ***:***

1. Is appointed by the Governor from a list of three candidates submitted by the State Board and serves at the pleasure of the Governor.

2. ~~[A vacancy must be filled by the State Board for the remainder of the unexpired term.~~

~~3. The Superintendent of Public Instruction is]~~ ***Is*** in the unclassified service of the State.

3. Is in the Executive Department of State Government.

Sec. 9. NRS 385.160 is hereby amended to read as follows:

385.160 To be eligible to the Office of Superintendent of Public Instruction, a person shall:

1. Have attained the age of 21 years at the time of his or her appointment; ~~[and]~~

2. Hold a master's degree in the field of education or school administration ~~[.]~~ ***; and***

3. Possess the knowledge and ability to carry out the duties required by this title and all other statutes and regulations governing K-12 public education.

Sec. 10. NRS 385.175 is hereby amended to read as follows:

385.175 The Superintendent of Public Instruction ~~[shall:]~~ ***is the educational leader for the system of K-12 public education in this State. The Superintendent of Public Instruction shall:***

1. Execute, direct or supervise all administrative, technical and procedural activities of the Department in accordance with policies prescribed by the State Board.

2. Employ personnel for the positions approved by the State Board and necessary for the efficient operation of the Department.

3. Organize the Department in a manner which will assure efficient operation and service.

4. Maintain liaison and coordinate activities with other state agencies performing educational functions.

5. ***Enforce the observance of this title and all other statutes and regulations governing K-12 public education.***

6. Request a plan of corrective action from the board of trustees of a school district or the governing body of a charter school if the Superintendent of Public Instruction determines that the school district or charter school has not complied with a requirement of this title or any other statute or regulation governing K-12 public education. The plan of corrective action must provide a timeline approved by the Superintendent of Public Instruction for compliance with the statute or regulation.

7. Perform such other duties as are prescribed by law.

Sec. 11. NRS 385.230 is hereby amended to read as follows:

385.230 1. The Superintendent of Public Instruction shall ***, in conjunction with the State Board, prepare an annual*** report ~~[to]~~ ***of*** the ~~[Governor biennially, on or before December 1, in the year immediately preceding a regular session of the Legislature concerning matters relating to~~

~~education in this state, including,~~] ***state of public education in this State. The report must include,*** without limitation ~~[, an~~] ***:***

(a) An analysis of each annual report of accountability prepared by the State Board pursuant to NRS 385.3469 ~~[in the immediately preceding 2 years.~~

~~2. The Superintendent of Public Instruction shall report to the Legislature during each regular session of the Legislature concerning matters relating to education in this state, including, without limitation, an analysis of each annual report of accountability prepared by the State Board pursuant to NRS 385.3469 in the immediately preceding 2 years.~~] ***;***

(b) An update on the status of K-12 public education in this State;

(c) A description of the most recent vision and mission statements of the State Board and the Department, including, without limitation, the progress made by the State Board and Department in achieving those visions and missions;

(d) A description of the goals and benchmarks for improving the academic achievement of pupils which are included in the plan to improve the achievement of pupils required by NRS 385.34691;

(e) An analysis of the progress the public schools have made in the previous year toward achieving the goals and benchmarks for improving the academic achievement of pupils;

(f) An analysis of whether the standards and examinations adopted by the State Board adequately prepare pupils for success in postsecondary educational institutions and in career and workforce readiness;

(g) An analysis of the extent to which school districts and charter schools recruit and retain effective teachers and principals;

(h) An analysis of the ability of the automated system of accountability information for Nevada established pursuant to NRS 386.650 to link the achievement of pupils to the performance of the individual teachers assigned to those pupils and to the principals of the schools in which the pupils are enrolled;

(i) An analysis of the extent to which the lowest performing public schools have improved the academic achievement of pupils enrolled in those schools;

(j) A summary of the innovative educational programs implemented by public schools which have demonstrated the ability to improve the academic achievement of pupils, including, without limitation:

(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; and

(k) A description of any plan of corrective action requested by the Superintendent of Public Instruction from the board of trustees of a school district or the governing body of a charter school and the status of that plan.

2. In odd-numbered years, the Superintendent of Public Instruction shall present the report in person to the Governor and each standing committee of the Legislature with primary jurisdiction over matters relating to K-12 public education at the beginning of each regular session of the Legislature.

3. In even-numbered years, the Superintendent of Public Instruction shall, on or before January 31, submit a written copy of the report to the Governor and to the Legislative Committee on Education.

Sec. 12. NRS 385.34691 is hereby amended to read as follows:

385.34691 1. The State Board shall prepare a plan to improve the achievement of pupils enrolled in the public schools in this State. The plan:

(a) Must be prepared in consultation with:

(1) Employees of the Department;

(2) At least one employee of a school district in a county whose population is 100,000 or more, appointed by the Nevada Association of School Boards;

(3) At least one employee of a school district in a county whose population is less than 100,000, appointed by the Nevada Association of School Boards; and

(4) **At least one representative of the Statewide Council for the Coordination of the Regional Training Programs created by NRS 391.516, appointed by the Council;** ~~*[Representatives of the regional training programs for the professional development of teachers and administrators created by NRS 391.512;]*~~ and

(b) May be prepared in consultation with:

(1) Representatives of institutions of higher education;

(2) Representatives of regional educational laboratories;

(3) Representatives of outside consultant groups;

(4) **Representatives of the regional training programs for the professional development of teachers and administrators created by NRS 391.512;**

(5) The Bureau; and

(6) ~~*[(5)]*~~ Other persons who the State Board determines are appropriate.

2. A plan to improve the achievement of pupils enrolled in public schools in this State must include:

(a) A review and analysis of the data upon which the report required pursuant to NRS 385.3469 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 common among the school districts or charter schools in this State, as 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 public schools in this State, 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 districts;

(4) Manage effectively the discipline of pupils; and

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

(e) Strategies designed to provide to the pupils enrolled in middle school, junior high school and high school, the teachers and counselors who provide instruction to those pupils, and the parents and guardians of those pupils information concerning:

(1) The requirements for admission to an institution of higher education and the opportunities for financial aid;

(2) The availability of Governor Guinn Millennium Scholarships pursuant to NRS 396.911 to 396.938, inclusive; and

(3) The need for a pupil to make informed decisions about his or her curriculum in middle school, junior high school and high school in preparation for success after graduation.

(f) An identification, by category, of the employees of the Department who are responsible for ensuring that each provision of the plan is carried out effectively.

(g) ~~[For]~~ ***A timeline for carrying out the plan, including, without limitation:***

(1) The rate of improvement and progress which must be attained annually in meeting the goals and benchmarks established by the State Board pursuant to subsection 3; and

(2) 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 this State, by program and by school district, 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, 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.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the State Board and the Department to carry out the plan, including, without limitation, a budget for the overall cost of carrying out the plan.

(k) A summary of the effectiveness 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.

(l) Any additional plans addressing the achievement and proficiency of pupils adopted by the Department.

3. The State Board shall:

(a) ***In developing the plan to improve the achievement of pupils enrolled in public schools, establish clearly defined goals and benchmarks for improving the achievement of pupils, including, without limitation, goals for:***

(1) Improving proficiency results in core academic subjects;

(2) Increasing the number of pupils enrolled in public middle schools and junior high schools, including, without limitation, charter schools, who enter public high schools with the skills necessary to succeed in high school;

(3) Improving the percentage of pupils who enroll in grade 9 and who graduate from a public high school, including, without limitation, a charter school, with a standard or higher diploma upon completion;

(4) Improving the performance of pupils on standardized college entrance examinations;

(5) Increasing the percentage of pupils enrolled in high schools who enter postsecondary educational institutions or who are career and workforce ready; and

(6) Reengaging disengaged youth who have dropped out of high school or who are at risk of dropping out of high school, including, without limitation, a mechanism for tracking and maintaining communication with those youth who have dropped out of school or who are at risk of doing so;

(b) Review the plan ~~[prepared pursuant to this section]~~ annually to evaluate the effectiveness of the plan; ~~[and~~

~~(b)]~~ ***(c) Examine the timeline for implementing the plan and each provision of the plan to determine whether the annual goals and benchmarks have been attained; and***

(d) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that ~~[the]~~ ***:***

(1) The goals and benchmarks set forth in the plan are being attained in a timely manner; and

(2) The plan is designed to improve the academic achievement of pupils enrolled in public schools in this State.

4. On or before December 15 of each year, the State Board shall submit the plan or the revised plan, as applicable, to the:

(a) Governor;

(b) Committee;

(c) Bureau;

(d) Board of Regents of the University of Nevada;

(e) **Council to Establish Academic Standards for Public Schools created by NRS 389.510;**

(f) Board of trustees of each school district; and

(g) ~~*[(f)]*~~ Governing body of each charter school.

Sec. 13. NRS 385.359 is hereby amended to read as follows:

385.359 1. The Bureau ~~[shall contract with a person or entity]~~ ***may, at the direction of the Committee, convene an advisory group*** 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:

(I) The State Board pursuant to NRS 385.34691;

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

(III) Each school pursuant to NRS 385.357 identified by the Bureau for review, if any, or if such a plan has not been prepared, the turnaround plan for the schools identified by the Bureau, if any, implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, as applicable.

(b) Submit a written report to and consult with the State Board and the Department regarding any methods by which the State Board may improve

the accuracy of the report of accountability required pursuant to NRS 385.3469 and the plan to improve the achievement of pupils required pursuant to NRS 385.34691, and the purposes for which the report and plan to improve are used.

(c) Submit a written report to and consult with each school district 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 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) 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]~~ ***If convened*** pursuant to subsection 1 ***, an advisory group*** must ***consist of members who*** possess the experience and knowledge necessary to perform those duties, as determined by the Committee.

Sec. 14. NRS 385.3781 is hereby amended to read as follows:

385.3781 As used in NRS 385.3781 to 385.379, inclusive, ***and*** ~~*[sections 2 and 3]*~~ ***section 3.3 of this act,*** unless the context otherwise requires, **the words and terms defined in NRS 385.3782 and 385.3783 have the meanings ascribed to them in those sections.** ~~*["Account" means the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379.]*~~

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. 19.5. **NRS 385.600 is hereby amended to read as follows:**

385.600 As used in this section and NRS 385.610 and 385.620, ***and section 3.5 of this act,*** "Advisory Council" means the Advisory Council on Parental Involvement established pursuant to NRS 385.610.

Sec. 20. Chapter 388 of NRS is hereby amended by adding thereto ~~[the provisions set forth as sections 21 and 22 of this act.]~~ **a new section to read as follows:**

The Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of the Commission set forth in NRS 388.780 to 388.805, inclusive, are carried out by the Commission successfully.

Sec. 21. **(Deleted by amendment.)**

Sec. 22. **(Deleted by amendment.)**

Sec. 23. NRS 388.780 is hereby amended to read as follows:

388.780 As used in NRS 388.780 to 388.805, inclusive, ***and*** ~~*[sections 21 and 22]*~~ ***section 20 of this act,*** unless the context otherwise requires, **the words and terms defined in NRS 388.785 and 388.787 have the meanings ascribed to them in those sections.** ~~*[*"Committee" means the Legislative Committee on Education created by NRS 218E.605.*]*~~

Sec. 24. **(Deleted by amendment.)**

Sec. 25. **(Deleted by amendment.)**

Sec. 26. **(Deleted by amendment.)**

Sec. 27. **(Deleted by amendment.)**

Sec. 27.5. **Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:**

The Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of the Council set forth in NRS 389.500 to 389.570, inclusive, are carried out by the Council successfully.

Sec. 27.7. **NRS 389.500 is hereby amended to read as follows:**

389.500 As used in NRS 389.500 to 389.570, inclusive, ***and section 27.5 of this act,*** "Council" means the Council to Establish Academic Standards for Public Schools.

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. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 37 ~~[and 38]~~ **to 38.7, inclusive,** of this act.

Sec. 37. ***On or before December 1 of each year, the Commission shall submit a written report to the State Board and the Legislative Committee on Education. The report must include, without limitation:***

1. A summary of the regulations adopted by the Commission and the status of those regulations;

2. A work plan which designates the proposed activities of the Commission during the next year; and

3. A description of the progress and status of each regulation relating to the licensure of educational personnel which the Commission is required to adopt pursuant to a legislative measure enacted within the two previous regular sessions of the Legislature or any special session of the Legislature occurring within that time. If the Commission has not adopted a required regulation, the Commission shall include in the report a detailed explanation describing the reasons each regulation was not adopted.

Sec. 38. **(Deleted by amendment.)**

Sec. 38.3. ***The Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of the Commission set forth in this chapter are carried out by the Commission successfully.***

Sec. 38.5. ***The Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of the Statewide Council and the regional training programs set forth in NRS 391.500 to 391.556, inclusive, and section 38.7 of this act are carried out by the Statewide Council and the regional training programs successfully.***

Sec. 38.7. ***1. The governing body of each regional training program shall establish an evaluation system for the teachers and other licensed educational personnel who participate in the program. The evaluation system must include:***

(a) Specific measures of the success of each teacher and other licensed person who participates in the training provided by the program; and

(b) Recommendations for follow-up for the teacher or other licensed person to strengthen his or her skills in the classroom or otherwise in his or her position of employment with the school district or charter school.

2. Each evaluation must be provided in written form to the person who is evaluated and the principal of the school at which the person is employed, if applicable, or, if the person is not supervised by a school principal, his or her direct supervisor.

Sec. 39. **(Deleted by amendment.)**

Sec. 40. **(Deleted by amendment.)**

Sec. 41. **(Deleted by amendment.)**

Sec. 42. NRS 391.027 is hereby amended to read as follows:

391.027 1. The State Board may disapprove any regulation adopted by the Commission . ~~[if the regulation:~~

~~(a) Threatens the efficient operation of the public schools in this State; or~~

~~(b) Creates an undue financial hardship for any teacher, administrator or other educational personnel or any county school district.]~~

2. A regulation shall be deemed approved if the State Board does not disapprove the regulation within 90 days after it is adopted by the Commission.

Sec. 43. (Deleted by amendment.)

Sec. 44. NRS 391.500 is hereby amended to read as follows:

391.500 As used in NRS 391.500 to 391.556, inclusive, ***and*** ~~*[section 38]*~~ ***sections 38.5 and 38.7 of this act,*** unless the context otherwise requires, **the words and terms defined in NRS 391.504 and 391.508 have the meanings ascribed to them in those sections.** ~~*["regional training program" means a regional training program for the professional development of teachers and administrators created pursuant to NRS 391.512.]*~~

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 47. (Deleted by amendment.)

Sec. 47.5. **NRS 391.512 is hereby amended to read as follows:**

391.512 1. There are hereby created the Southern Nevada Regional Training Program, the Northeastern Nevada Regional Training Program and the Northwestern Nevada Regional Training Program. The governing body of each regional training program shall establish and operate a:

(a) Regional training program for the professional development of teachers and administrators.

(b) Nevada Early Literacy Intervention Program through the regional training program established pursuant to paragraph (a).

2. Except as otherwise provided in subsection 5, the Southern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by school districts in:

(a) Clark County;

(b) Esmeralda County;

(c) Lincoln County;

(d) Mineral County; and

(e) Nye County.

3. Except as otherwise provided in subsection 5, the Northeastern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by school districts in:

(a) ~~[Churchill County;~~

~~(b)]~~ Elko County;

~~[(c)]~~ ***(b)*** Eureka County;

~~[(d)]~~ ***(c)*** Lander County;

~~[(e)]~~ ***(d)*** Humboldt County;

~~[(f)]~~ ***(e)*** Pershing County; and

~~[(g)]~~ ***(f)*** White Pine County.

4. Except as otherwise provided in subsection 5, the Northwestern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by school districts in:

(a) Carson City;

(b) ***Churchill County;***

(c) Douglas County;

~~[(c)]~~ ***(d)*** Lyon County;

~~[(d)]~~ ***(e)*** Storey County; and

~~[(e)]~~ ***(f)*** Washoe County.

5. Each regional training program shall, when practicable, make reasonable accommodations for the attendance of teachers and administrators who are employed by school districts outside the primary jurisdiction of the regional training program.

6. The board of trustees of the:

(a) Clark County School District shall serve as the fiscal agent for the Southern Nevada Regional Training Program.

(b) Elko County School District shall serve as the fiscal agent for the Northeastern Nevada Regional Training Program.

(c) Washoe County School District shall serve as the fiscal agent for the Northwestern Nevada Regional Training Program.

➥ As fiscal agent, each school district is responsible for the payment, collection and holding of all money received from this State for the maintenance and support of the regional training program and Nevada Early Literacy Intervention Program established and operated by the applicable governing body.

Sec. 48. NRS 391.544 is hereby amended to read as follows:

391.544 1. Based upon the assessment of needs for training within the region and priorities of training adopted by the governing body pursuant to NRS 391.540, each regional training program must provide:

(a) Training for teachers ***and other licensed educational personnel*** in the ~~[standards]~~ **:**

(1) Standards **established** ~~*[adopted]*~~ by the **Council to Establish Academic Standards for Public Schools** ~~*[State Board]*~~ pursuant to NRS 389.520 ~~[.]~~ **;**

(2) The curriculum and instruction required for the common core state standards adopted by the State Board;

(3) Curriculum and instruction recommended by the Teachers and Leaders Council of Nevada; and

(4) Culturally relevant pedagogy, taking into account cultural diversity and demographic differences throughout this State.

(b) Through the Nevada Early Literacy Intervention Program established for the regional training program, training for teachers who teach kindergarten and grades 1, 2 or 3 on methods to teach fundamental reading skills, including, without limitation:

(1) Phonemic awareness;

(2) Phonics;

(3) Vocabulary;

(4) Fluency;

(5) Comprehension; and

(6) Motivation.

(c) At least one of the following types of training:

(1) Training for teachers and school administrators in the assessment and measurement of pupil achievement and the effective methods to analyze the test results and scores of pupils to improve the achievement and proficiency of pupils.

(2) Training for teachers in specific content areas to enable the teachers to provide a higher level of instruction in their respective fields of teaching. Such training must include instruction in effective methods to teach in a content area provided by teachers who are considered masters in that content area.

(3) In addition to the training provided pursuant to paragraph (b) of subsection 1, training for teachers in the methods to teach basic skills to pupils, such as providing instruction in reading with the use of phonics and providing instruction in basic skills of mathematics computation.

2. The training required pursuant to subsection 1 must:

(a) Include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

(b) Include appropriate procedures to ensure follow-up training for teachers and administrators who have received training through the program.

(c) Incorporate training that addresses the educational needs of:

(1) Pupils with disabilities who participate in programs of special education; and

(2) Pupils who are limited English proficient.

3. The governing body of each regional training program shall prepare and maintain a list that identifies programs for the professional development of teachers and administrators that successfully incorporate:

(a) The standards of content and performance **established** ~~*[adopted]*~~ by the **Council to Establish Academic Standards for Public Schools** ~~*[State Board]*~~ pursuant to NRS 389.520;

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

➥ The governing body shall provide a copy of the list on an annual basis to school districts for dissemination to teachers and administrators.

4. A regional training program may include model classrooms that demonstrate the use of educational technology for teaching and learning.

5. A regional training program may contract with the board of trustees of a school district that is served by the regional training program as set forth in NRS 391.512 to provide professional development to the teachers and administrators employed by the school district that is in addition to the training required by this section. Any training provided pursuant to this subsection must include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

6. To the extent money is available from legislative appropriation or otherwise, a regional training program may provide training to paraprofessionals.

Sec. 49. **(Deleted by amendment.)**

Sec. 50. NRS 391.556 is hereby amended to read as follows:

391.556 The board of trustees of each school district shall submit an annual report to the State Board, the Commission, the Legislative Committee on Education and the Legislative Bureau of Educational Accountability and Program Evaluation that includes for the immediately preceding year:

1. The number of teachers and administrators employed by the school district who received training through the program **[**~~; and~~**]** ***, including, without limitation, the type of training received.***

2. An evaluation of whether that training included the ~~[standards]~~ ***:***

(a) Standards of content and performance **established** ~~*[adopted]*~~ by the **Council to Establish Academic Standards for Public Schools** ~~*[State Board]*~~ pursuant to NRS 389.520 **[**~~.~~**]** ***;***

(b) The curriculum and instruction required for the common core standards adopted by the State Board;

(c) The curriculum and instruction recommended by the Teachers and Leaders Council of Nevada; and

(d) Culturally relevant pedagogy, taking into account cultural diversity and demographic differences throughout this State.

3. An evaluation of the effectiveness of the training on improving the quality of instruction and the achievement of pupils.

Sec. 51. **(Deleted by amendment.)**

Sec. 52. **(Deleted by amendment.)**

Sec. 53. NRS 218E.625 is hereby amended to read as follows:

218E.625 1. The Legislative Bureau of Educational Accountability and Program Evaluation is hereby created within the Fiscal Analysis Division of the Legislative Counsel Bureau. The Fiscal Analysts shall appoint to the Legislative Bureau of Educational Accountability and Program Evaluation a Chief and such other personnel as the Fiscal Analysts determine are necessary for the Bureau to carry out its duties pursuant to this section.

2. The Bureau shall, as the Fiscal Analysts determine is necessary or at the request of the Committee:

(a) Collect and analyze data and issue written reports 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 statewide program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;

(3) The statewide program to educate persons with disabilities that is set forth in chapter 395 of NRS;

(4) The results of the examinations of the National Assessment of Educational Progress that are administered pursuant to NRS 389.012; and

(5) Any program or legislative measure, the purpose of which is to reform the system of education within this State.

(b) Conduct studies and analyses to evaluate the performance and progress of the system of public education within this State. Such studies and analyses may be conducted:

(1) As the Fiscal Analysts determine are necessary; or

(2) At the request of the Legislature.

➥ This paragraph does not prohibit the Bureau from contracting with a person or entity to conduct studies and analyses on behalf of the Bureau.

(c) On or before ~~[December 31]~~ ***October 1*** of each even-numbered year, submit a written report of its findings pursuant to paragraphs (a) and (b) to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The Bureau shall, on or before ~~[December 31]~~ ***October 1*** of each odd-numbered year, submit a written report of its findings pursuant to paragraphs (a) and (b) to the Director of the Legislative Counsel Bureau for transmission to the Legislative Commission ~~[.]~~ ***and to the Legislative Committee on Education.***

3. The Bureau may, pursuant to NRS 218F.620, require a school, a school district, the Nevada System of Higher Education or the Department of Education to submit to the Bureau books, papers, records and other information that the Chief of the Bureau determines are necessary to carry out the duties of the Bureau pursuant to this section. An entity whom the Bureau requests to produce records or other information shall provide the records or other information in any readily available format specified by the Bureau.

4. Except as otherwise provided in this subsection or NRS 239.0115, any information obtained by the Bureau pursuant to this section shall be deemed a work product that is confidential pursuant to NRS 218F.150. The Bureau may, at the discretion of the Chief and after submission to the Legislature or Legislative Commission, as appropriate, publish reports of its findings pursuant to paragraphs (a) and (b) of subsection 2.

5. This section does not prohibit the Department of Education or the State Board of Education from conducting analyses, submitting reports or otherwise reviewing educational programs in this State.

Sec. 53.5. **Section 23 of Assembly Bill No. 579 of this session is hereby repealed.**

Sec. 54. ~~[1. NRS 385.3782, 385.3783, 385.3784, 388.785, 388.787, 388.790, 389.500, 389.510, 389.530, 391.504, 391.508 and 391.516 are hereby repealed.~~

~~2.]~~ NRS **385.017,** 385.0175, 385.018, 385.019, 385.0225, 385.023, 385.0235, 385.024, 385.0245, 385.025, 385.0255, 385.0257, 385.026 and 385.0265 are hereby repealed.

Sec. 54.5. **1. The Department of Education shall transfer the following sums from the Account for Programs for Innovation and the**

Prevention of Remediation created by NRS 385.379 to the school districts specified in this subsection:

	FY 2012	FY 2013
Clark County School District	$1,450,005	$1,450,005
Elko County School District	$1,335,736	$1,335,736
Washoe County School District	$1,154,698	$1,154,698
Total	$3,940,439	$3,940,439

2. The Department of Education shall transfer the following sums from the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379 to the school districts specified in this subsection:

	FY 2012	FY 2013
Clark County School District	$2,533,351	$2,533,351
Washoe County School District	$987,158	$987,158
Total	$3,520,509	$3,520,509

3. A school district that receives an allocation pursuant to subsection 1 shall serve as fiscal agent for the respective regional training program for the professional development of teachers and administrators. As fiscal agent, each school district is responsible for the payment, collection and holding of all money received from this State for the maintenance and support of the regional training program for the professional development of teachers and administrators and the Nevada Early Literacy Intervention Program established and operated by the applicable governing body. The Clark County School District and the Washoe County School District shall not use any of the money allocated pursuant to subsection 1 for the purchase of professional development to the teachers and administrators that it employs, other than the money which is allocated for the administration and overhead of the regional training program.

4. The Clark County School District and the Washoe County School District shall use the money allocated to the school district pursuant to subsection 2 for the provision of professional development for teachers and administrators employed by that school district, which may include, without limitation, the provision of professional development through the regional training program for the professional development of teachers and administrators. If the Clark County School District or the Washoe County School District elects to use all or a portion of the money allocated pursuant to subsection 2 to purchase professional development services from the regional training program for the professional development of teachers and administrators, the School District shall provide written notice to the regional training program on or before August 1, 2011, for the 2011-2012 Fiscal Year, and March 1, 2012, for the 2012-2013 Fiscal Year.

5. On or before February 1, 2013, the Clark County School District and the Washoe County School District shall each submit a report to the

Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature which describes:

(a) The professional development purchased by the School District from the allocation made pursuant to subsection 2; and

(b) The effectiveness of the professional development purchased pursuant to subsection 2 on improving the quality of instruction and the achievement of pupils in the School District.

6. Any balance of the transfers made by subsections 1 and 2 remaining at the end of the 2011-2012 Fiscal Year must be added to the money received by the school districts for the 2012-2013 Fiscal Year and may be expended as that money is expended. Any remaining balance of the transfers made by subsections 1 and 2 for the 2012-2013 Fiscal Year, including any money added from the transfer for the previous fiscal year, must not be committed for expenditure after June 30, 2013, by the entity to which the transfer is made or any entity to which money from the transfer is granted or otherwise transferred in any manner, and any portion of the transferred money remaining must not be spent for any purpose after September 20, 2013, by the entity to which the money was transferred, and must be reverted to the State General Fund on or before September 20, 2013.

Sec. 55. 1. The terms of all members of the State Board of Education who are incumbent on ~~[~~December 31, 2012,~~]~~ **January 7, 2013,** expire on that date.

2. On or before January ~~[~~1,~~]~~ **8,** 2013, the Governor ~~[~~, the Majority Leader of the Senate and the Speaker of the Assembly~~]~~ shall ~~[~~each~~]~~ appoint ~~[~~one member~~]~~ **the members** to the ~~[~~Nevada Commission on K-12 Public~~]~~ **State Board of** Education ~~[~~who meets~~]~~ **in accordance with** the qualifications set forth in NRS 385.021, as amended by section 6 of this act, ~~[~~to an initial term commencing on January 1, 2013, and expiring on December 31, 2014.

~~3. On or before January 1, 2013, the Nevada Association of School Boards shall appoint one member to the Nevada Commission on K-12 Public Education who meets the qualifications set forth in paragraph (a) of subsection 2 of NRS 385.021, as amended by section 6 of this act, to an initial term commencing on January 1, 2013, and expiring on December 31, 2013.~~

~~4. On or before January 1, 2013, the Nevada Association of School Superintendents shall appoint one member to the Nevada Commission on K-12 Public Education who meets the qualifications set forth in paragraph (b) of subsection 2 of NRS 385.021, as amended by section 6 of this act, to an initial term commencing on January 1, 2013, and expiring on December 31, 2013.~~

~~5. On or before January 1, 2013, the Board of Regents of the University of Nevada shall appoint one member to the Nevada Commission on K-12 Public Education who meets the qualifications set forth in paragraph (c) of subsection 2 of NRS 385.021, as amended by section 6 of this act, to an~~

~~initial term commencing on January 1, 2013, and expiring on December 31, 2013.~~

~~6. On or before January 1, 2013, the Nevada Association of Student Councils or its successor organization shall appoint one member to the Nevada Commission on K-12 Public Education who meets the qualifications set forth in paragraph (d) of subsection 2 of NRS 385.021, as amended by section 6 of this act, to an initial term commencing on January 1, 2013, and expiring on December 31, 2013.~~] **as follows:**

(a) Three voting members pursuant to paragraphs (b), (c) and (d) of subsection 1 of NRS 385.021, as amended by section 6 of this act, to initial terms commencing on January 8, 2013, and expiring on January 5, 2015.

(b) Three nonvoting members pursuant to paragraphs (a), (b) and (c) of subsection 2 of NRS 385.021, as amended by section 6 of this act, to initial terms commencing on January 8, 2013, and expiring on January 6, 2014.

(c) One nonvoting member pursuant to paragraph (d) of subsection 2 of NRS 385.021, as amended by section 6 of this act, to an initial term commencing on January 8, 2013, and expiring on May 31, 2014.

Sec. 56. **(Deleted by amendment.)**

Sec. 57. **(Deleted by amendment.)**

Sec. 58. 1. The ~~[Nevada Commission on K-12 Public]~~ **State Board of** Education shall review any vision and mission statements adopted by the ~~[former]~~ State Board ~~[of Education]~~ and revise those statements, as determined necessary by the ~~[Commission,]~~ **State Board,** to ensure that the pupils enrolled in public schools in this State have access to a high quality education and are fully prepared for the future and for competing successfully in a global economy and to help guide and accelerate Nevada's K-12 public education system into the future. In its review and revision, the ~~[Commission]~~ **State Board** shall review the vision and mission statements for K-12 public education developed by state entities responsible for public education in other states.

2. On or before July 1, 2013, the ~~[Nevada Commission on K-12 Public]~~ **State Board of** Education shall submit the revised vision and mission statements developed pursuant to subsection 1 to the:

(a) Governor; and

(b) Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature and to the Legislative Committee on Education.

3. The ~~[Nevada Commission on K-12 Public]~~ **State Board of** Education shall post on its Internet website the revised vision and mission statements developed pursuant to subsection 1.

Sec. 58.5. **1. The Superintendent of Public Instruction who was appointed pursuant to NRS 385.150 to a term expiring in March 2013 continues to serve for the remainder of the unexpired term. If a vacancy**

occurs before the expiration of that term, the Governor shall appoint the Superintendent of Public Instruction in accordance with NRS 385.150, as amended by section 8.5 of this act, for the remainder of the unexpired term.

2. If a vacancy does not occur pursuant to subsection 1, upon the expiration of the current term of the Superintendent of Public Instruction, the Governor shall appoint the Superintendent of Public Instruction pursuant to NRS 385.150, as amended by section 8.5 of this act.

Sec. 58.7. **1. Not later than July 1, 2011, the Elko County School District shall transfer from the Northeastern Nevada Regional Training Program to the Washoe County School District for the Northwestern Nevada Regional Training Program an appropriate sum of money to reflect the changes made by NRS 391.512, as amended by section 47.5 of this act.**

2. Commencing on July 1, 2011, the Churchill County School District shall be within the jurisdiction of the Northwestern Nevada Regional Training Program as set forth in NRS 391.512, as amended by section 47.5 of this act.

Sec. 59. **(Deleted by amendment.)**

Sec. 60. **(Deleted by amendment.)**

Sec. 61. **(Deleted by amendment.)**

Sec. 62. **(Deleted by amendment.)**

Sec. 63. **(Deleted by amendment.)**

Sec. 64. 1. This section and ~~[section 56]~~ **sections 53.5 and 58.7** of this act become effective upon passage and approval.

2. Sections 1 to ~~[3,]~~ **5,** inclusive, 8 to ~~[38,]~~ **53,** inclusive, ~~[42 to 53, inclusive, subsection 1 of section 54, 55, 57, and 59]~~ **47.5, 54.5 to 57, inclusive, and 58.5** to ~~[62,]~~ **63,** inclusive, of this act become effective on July 1, 2011.

3. ~~[Section 39 of this act becomes effective on October 1, 2011, for purposes of making appointments to the Commission on Professional Standards in Education pursuant to section 57 of this act and on January 1, 2012, for all other purposes.~~

~~4. Sections 40, 41 and 63 of this act become effective on January 1, 2012.~~

~~5. Subsection 2 of section 54 of this act becomes effective on January 1, 2013.~~

~~6.]~~ **Section 54 of this act becomes effective on November 7, 2012.**

4. Section 6 of this act becomes effective on January 1, 2012, for the ~~[purposes of filing a declaration or acceptance of candidacy for the office of Commissioner of the Nevada Commission on K-12 Public Education on the ballot for the 2012 General Election and on January 1, 2013, for all other purposes.~~

~~7.]~~ **purpose of filing for office and for nominating and electing members of the State Board of Education and on January 8, 2013, for all other purposes.**

5. Sections ~~[4, 5,]~~ 7 and 58 of this act become effective on January 1, 2013.

LEADLINES OF REPEALED SECTIONS

385.017 Definitions.

385.0175 Maps of districts: Duties of Director of Legislative Counsel Bureau.

385.018 Maps of districts: Duties of Secretary of State.

385.019 Attachment of omitted area to appropriate district.

385.0225 District 1.

385.023 District 2.

385.0235 District 3.

385.024 District 4.

385.0245 District 5.

385.025 District 6.

385.0255 District 7.

385.0257 District 8.

385.026 District 9.

385.0265 District 10.

~~[385.3782 "Account" defined.~~

~~385.3783 "Commission" defined.~~

~~385.3784 Commission: Creation; membership; terms; meetings; compensation of members; duty of Department to provide administrative support; involvement of the Legislative Counsel Bureau in activities of Commission.~~

~~388.785 "Commission" defined.~~

~~388.787 "Committee" defined.~~

~~388.790 Commission on Educational Technology: Creation; membership; terms; removal and vacancy; quarterly meetings required; compensation.~~

~~389.500 "Council" defined.~~

~~389.510 Council to Establish Academic Standards: Creation; membership; terms; compensation.~~

~~389.530 Council to Establish Academic Standards: Duty of Department to provide support; assistance from other state agencies.~~

~~391.504 "Regional training program" defined.~~

~~391.508 "Statewide Council" defined.~~

~~391.516 Statewide Council for the Coordination of the Regional Training Programs: Creation; membership; terms; compensation; administrative support authorized.]~~

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. 942 makes significant changes to the bill. Major changes include the following items.

For the State Board of Education, the amendment provides that there are 11 total members. Seven are voting and four are non-voting. Of the seven voting members, four are elected by Congressional District and serve four years. Three of the voting members are appointed by the Governor, with the Senate Majority Leader and the Speaker of the Assembly nominating one each. These appointed members serve two-year terms with the ability to be reappointed for a second two-year term. Voting member appointees must include a teacher, a parent, and a business person and must reflect the State's geographic diversity. A list of three nominees for the teacher appointment will be provided by the Nevada State Education Association.

With regard to the four non-voting members, one is a school board member appointed by the Nevada Association of School Boards, one is a district superintendent appointed by the Nevada Association of School Superintendents, one is a representative of the Nevada System of Higher Education appointed by the Board of Regents, and one is a public school student appointed by the Nevada Association of Student Councils in consultation with the Nevada Youth Legislature. Non-voting appointed members serve one-year terms with a one-year reappointment option. The term for the student is based upon a school year.

The Board must meet at least 9 and not more than 12 times a year, one of which must be an "education summit."

The changes to the Superintendent of Public Instruction include the following measures:

The Superintendent will now be appointed by the Governor from a list of three names submitted by the State Board of Education. The Superintendent serves at the pleasure of the Governor and is in the Executive Department of State Government.

The Superintendent serves as the State's educational leader and is charged with enforcing the State education statutes and regulations governing K-12 public education. As part of that authority, he or she may impose corrective plans for non-compliance.

In consultation with the State Board, the Superintendent prepares a detailed report on the state of public education in Nevada.

The Superintendent is responsible for ensuring the duties and responsibilities are carried out successfully by the Commission on Educational Excellence, the Advisory Council on Parent Involvement, the Commission on Educational Technology and the Council to Establish Academic Standards.

There is one revision to the activities of the Commission on Professional Standards in Education. This is the commission responsible for teacher licensure. The Commission must now report to the State Board and to the Legislature about its progress and prepare a work plan for adopting required regulations.

For the Regional Professional Development Programs (RPDPs), the amendment does the following.

It transfers the Churchill County School District to the Northwest Nevada regional training program, and provides authority for transferring appropriate funding associated with that transfer.

It revises the funding mechanism for the RPDPs to provide flexibility to the Clark and Washoe County school districts in obtaining professional development for teachers and other licensed educational personnel. Sufficient funding is provided to the program currently serving the Clark County and Washoe County school districts for administrative costs, and for direct professional services to the rural school districts served by the region.

It requires each RPDP to establish an evaluation system for teachers and other licensed educational personnel. The evaluation system shall include measures of success and recommendations for follow-up. The evaluation is to be provided to the person evaluated and to the principal.

In addition to training in the academic standards, the measure adds curriculum and instruction, as related to the common core standards and culturally relevant pedagogy.

This is what is known as the governance bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 360.

Bill read third time.

The following amendment was proposed by Senator Horsford:

Amendment No. 925.

"SUMMARY—Revises provisions governing redevelopment agencies. (BDR 22-937)"

"AN ACT relating to redevelopment of communities; revising requirements for the submission of an employment plan; requiring a redevelopment agency to withhold a portion of any incentive provided to a developer unless the developer satisfies certain conditions; requiring the reporting of certain information relating to the redevelopment project by certain developers; **extending the duration of certain redevelopment plans;** requiring an employment plan to include information relating to preferences for hiring persons from the redevelopment area; **authorizing a redevelopment agency to loan money to finance certain improvements under certain circumstances; requiring certain redevelopment agencies to set aside certain revenue from property taxes for additional purposes;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, if a redevelopment agency provides property for development for less than the fair market value of the property or provides financial incentives of more than $100,000 to a developer, the developer must comply with certain laws relating to the payment of a prevailing wage. (NRS 279.500) Additionally, a proposal for a redevelopment project must include an employment plan, if appropriate. (NRS 279.482)

Sections 2-9 of this bill only apply to a developer for a redevelopment project if part of the redevelopment area is within an enterprise community. **Section 6** of this bill ~~[exempts]~~ **requires** public agencies who use redevelopment funds for a public work ~~[and private developers who do not construct a redevelopment project for a known owner from the requirement]~~ to submit an employment plan ~~[.]~~ **and exempts private developers who do not construct a redevelopment project for a known owner from that requirement.** **Section 7** of this bill requires an agency that proposes to provide an incentive to a developer to withhold payment of 10 percent of the incentive unless: (1) 15 percent of the employees of contractors, subcontractors, vendors and suppliers of the developer are residents of the redevelopment area; (2) 15 percent of the jobs created by employers as a result of the redevelopment project are filled by residents of the redevelopment area; (3) the developer or build-to-suit owner or lessee complies with the requirements in the employment plan; and (4) the developer satisfies the reporting required by **section 8** of this bill. **Section 9**

of this bill allows a developer to appeal a refusal to pay the amount provided for in **section 7** to the legislative body of the community.

Section 8 requires a developer that receives an incentive of more than $100,000 to report to the redevelopment agency certain information relating to the redevelopment project. **Section 8** also requires a developer that receives $100,000 or less in incentives to use its best efforts to report such information. Finally, **section 8** allows the redevelopment agency to refuse to pay all or a portion of the incentive or to require repayment of any incentive already paid if a developer fails to comply.

Section 11 of this bill requires the employment plan to include information about the preference for hiring persons living within the redevelopment area used by the developer and each employer who will be relocating a business into the area as a result of the redevelopment.

~~[Section 12 of this bill makes an appropriation for a study of the feasibility of a renewable energy sustainability center in the Southern Nevada Enterprise Community.]~~

Existing law provides that a redevelopment plan adopted by a redevelopment agency before July 1, 1991, terminates at the end of the fiscal year in which the principal and interest of the last maturing securities issued before that date concerning the redevelopment area are fully paid, or 45 years after the date on which the original redevelopment plan was adopted, whichever is later. (NRS 279.438) Section 10.5 of this bill provides that in a county whose population is 700,000 or more (currently Clark County), such a redevelopment plan terminates at the end of the fiscal year in which the principal and interest of the last maturing securities issued before that date concerning the redevelopment area are fully paid, or 60 years after the date on which the original redevelopment plan was adopted, whichever is later.

Section 13 of this bill authorizes a redevelopment agency to loan money to finance certain improvements with the consent of the legislative body of the community where the redevelopment agency is located.

Section 14 of this bill requires the redevelopment agency of a city whose population if 300,000 or more (currently the City of Las Vegas) that receives certain revenue from taxes set aside a portion of those revenues received on or after July 1, 2011, to be used for specific purposes, including renewable energy projects, economic development, improvement of public educational facilities and the development of affordable housing within enterprise communities.

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

Section 1. Chapter 279 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. ***"Build-to-suit developer" means a private developer who constructs a redevelopment project in accordance with the customized***

specifications of a known owner or lessee to whom the developer will convey or lease the property upon completion of the project.

Sec. 3. *"Build-to-suit owner or lessee" means the owner or lessee of a redevelopment project that has been constructed by a build-to-suit developer to the customized specifications of the owner or lessee.*

Sec. 4. *"Developer" means a person or entity that proposes to construct a redevelopment project which will receive financial assistance from an agency.*

Sec. 5. *"Southern Nevada Enterprise Community" means the area designated as the Southern Nevada Enterprise Community in section 5 of chapter 407, Statutes of Nevada 2007.*

Sec. 5.5. *The provisions of sections 2 to 9, inclusive, of this act do not apply to a developer for a redevelopment project unless a portion of the redevelopment area of the redevelopment project is within an enterprise community which is currently or was previously established pursuant to 24 C.F.R. Part 597, including without limitation, the Southern Nevada Enterprise Community.*

Sec. 6. *1. A public agency that uses redevelopment funds for the design or construction of a redevelopment project being built as a public work pursuant to chapter 338 of NRS is ~~[not]~~ required to submit an employment plan pursuant to NRS 279.482.*

2. A developer who constructs a redevelopment project for the purpose of conveying or leasing the property to an unknown owner or lessee is not required to submit an employment plan pursuant to NRS 279.482 but may submit an employment plan voluntarily.

Sec. 7. *1. Except as otherwise provided in subsection 2, if an agency proposes to provide an incentive to a developer for a redevelopment project, 10 percent of the amount of the proposed incentive must be withheld by the agency and must not be paid to the developer unless:*

(a) At least 15 percent of all employees of contractors, subcontractors, vendors and suppliers of the developer are bona fide residents of the redevelopment area and, among such persons, preference in hiring and contracting is given to residents of the Southern Nevada Enterprise Community;

(b) At least 15 percent of all jobs created by employers who relocate to the redevelopment area are filled by bona fide residents of the redevelopment area and, among such persons, preference in hiring is given to residents of the Southern Nevada Enterprise Community;

(c) The developer or build-to-suit owner or lessee complies with any requirements imposed by the agency relating to the employment plan in the agreement for the redevelopment project; and

(d) The developer satisfies all reporting requirements as described in section 8 of this act.

2. If an agency provides nonmonetary incentives to a developer for a redevelopment project, the developer shall deposit an amount of money

with the agency equal to 10 percent of the value of the nonmonetary incentives as agreed upon between the agency and the developer. If the developer satisfies the requirements of paragraphs (a) to (d), inclusive, of subsection 1, the agency shall return the deposit required by this subsection to the developer.

Sec. 8. ***1. Except as otherwise provided in subsection 2, a developer that receives incentives from an agency for a redevelopment project shall, upon completion of the project and upon request of the agency, report, in a form prescribed by the agency, information relating to:***

(a) Outreach efforts that the developer has utilized, including, without limitation, information relating to job fairs, advertisements in publications that reach residents of the redevelopment area and utilization of employment referral agencies;

(b) Training conducted for persons hired by the developer and contractors, subcontractors, vendors and suppliers of the developer and the employers within the development project; and

(c) The execution of the redevelopment, including, without limitation, plans and the scope of services.

2. If a developer receives incentives from an agency for a redevelopment project with a value of $100,000 or less, the developer shall use its best efforts to satisfy the reporting requirements described in subsection 1.

3. If the developer fails to comply with the requirements of this section:

(a) The agency may refuse to pay all or any portion of an incentive; and

(b) The agency may require the developer to repay any incentive already paid to the developer.

Sec. 9. ***1. A developer may appeal the refusal by an agency to pay the amount provided for in section 7 of this act to the legislative body of the community.***

2. In an appeal, the developer has the burden of demonstrating that:

(a) Specific actions were taken to substantially fulfill the requirements of section 7 of this act;

(b) An insufficient number of significant opportunities for appropriate contractors, subcontractors, vendors or suppliers to perform a commercially useful function in the project existed; and

(c) Use of appropriate contractors, subcontractors, vendors or suppliers as required by section 7 of this act would have significantly and adversely affected the overall cost of the project.

3. If the legislative body finds that the developer's appeal has satisfied the requirements of subsection 2, the agency shall pay the developer the amount provided for in section 7 of this act.

Sec. 10. NRS 279.384 is hereby amended to read as follows:

279.384 As used in NRS 279.382 to 279.685, inclusive, ***and sections 2 to 9, inclusive, of this act,*** unless the context otherwise requires, the words and

terms defined in NRS 279.386 to 279.414, inclusive, ***and sections 2 to 5, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 10.5. **NRS 279.438 is hereby amended to read as follows:**

279.438 A redevelopment plan adopted before January 1, 1991, and any amendments to the plan must terminate at the end of the fiscal year in which the principal and interest of the last maturing of the securities issued before that date concerning the redevelopment area are fully paid or ***:***

1. In a county whose population is 700,000 or more, 60 years after the date on which the original redevelopment plan was adopted, whichever is later.

2. In a county whose population is less than 700,000, 45 years after the date on which the original redevelopment plan was adopted, whichever is later.

Sec. 11. NRS 279.482 is hereby amended to read as follows:

279.482 1. An agency may obligate lessees or purchasers of property acquired in a redevelopment project to:

(a) Use the property for the purpose designated in the redevelopment plans.

(b) Begin the redevelopment of the area within a period of time which the agency fixes as reasonable.

(c) Comply with other conditions which the agency deems necessary to carry out the purposes of NRS 279.382 to 279.685, inclusive, including, without limitation, the provisions of an employment plan or a contract approved for a redevelopment project.

2. ~~[As]~~ ***Except as otherwise provided in section 6 of this act, as*** appropriate for the particular project, each proposal for a redevelopment project must also include an employment plan. The employment plan must include:

(a) A description of the existing opportunities for employment within the area;

(b) A projection of the effect that the redevelopment project will have on opportunities for employment within the area; ~~[and]~~

(c) A description of the manner in which an employer relocating a business into the area plans to employ persons living within the area of operation who:

(1) Are economically disadvantaged;

(2) Have a physical disability;

(3) Are members of racial minorities;

(4) Are veterans; or

(5) Are women ~~[.]~~ ***; and***

(d) A description of the manner in which:

(1) The developer will give a preference in hiring for construction jobs for the project to persons living within the redevelopment area and, among such persons, to persons living within the Southern Nevada Enterprise Community; and

(2) Each employer relocating a business into the area plans to give a preference in hiring to persons living within the redevelopment area and, among such persons, to persons living within the Southern Nevada Enterprise Community.

Sec. 12. ~~[There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of $50,000 for the contractual services of a consultant to study the feasibility of a renewable energy sustainability center in the Southern Nevada Enterprise Community.]~~ **(Deleted by amendment.)**

Sec. 13. **NRS 279.486 is hereby amended to read as follows:**

279.486 1. An agency may, with the consent of the legislative body, pay all or part of the value of ***, or loan money to finance,*** the land for and the cost of the construction of any building, facility, structure or other improvement and the installation of any improvement which is publicly or privately owned and located within or without the redevelopment area. Before the legislative body may give its consent, it must determine that:

(a) The buildings, facilities, structures or other improvements are of benefit to the redevelopment area or the immediate neighborhood in which the redevelopment area is located; and

(b) No other reasonable means of financing those buildings, facilities, structures or other improvements are available.

➥ Those determinations by the agency and the legislative body are final and conclusive.

2. In reaching its determination that the buildings, facilities, structures or other improvements are of benefit to the redevelopment area or the immediate neighborhood in which the redevelopment area is located, the legislative body shall consider:

(a) Whether the buildings, facilities, structures or other improvements are likely to:

(1) Encourage the creation of new business or other appropriate development;

(2) Create jobs or other business opportunities for nearby residents;

(3) Increase local revenues from desirable sources;

(4) Increase levels of human activity in the redevelopment area or the immediate neighborhood in which the redevelopment area is located;

(5) Possess attributes that are unique, either as to type of use or level of quality and design;

(6) Require for their construction, installation or operation the use of qualified and trained labor; and

(7) Demonstrate greater social or financial benefits to the community than would a similar set of buildings, facilities, structures or other improvements not paid for by the agency.

(b) The opinions of persons who reside in the redevelopment area or the immediate neighborhood in which the redevelopment area is located.

(c) Comparisons between the level of spending proposed by the agency and projections, made on a pro forma basis by the agency, of future revenues attributable to the buildings, facilities, structures or other improvements.

3. If the value of that land or the cost of the construction of that building, facility, structure or other improvement, or the installation of any improvement has been, or will be, paid or provided for initially by the community or other governmental entity, the agency may enter into a contract with that community or governmental entity under which it agrees to reimburse the community or governmental entity for all or part of the value of that land or of the cost of the building, facility, structure or other improvement, or both, by periodic payments over a period of years. The obligation of the agency under that contract constitutes an indebtedness of the agency which may be payable out of taxes levied and allocated to the agency under paragraph (b) of subsection 1 of NRS 279.676, or out of any other available money.

Sec. 14. **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]~~ ***:***

(a) Set aside not less than 15 percent of that revenue received on or before October 1, 1999, and 18 percent of that revenue received after October 1, 1999, ***but before July 1, 2011,*** to increase, improve and preserve the number of dwelling units in the community for low-income households.

(b) Use not less than 18 percent of that revenue received on or after July 1, 2011, as follows:

(1) One half of such amount for economic development, renewable energy projects, the improvement of public educational facilities and the development of affordable housing within an enterprise community which is currently or was previously established pursuant to 24 C.F.R. Part 597, including, without limitation, the Southern Nevada Enterprise Community.

(2) One half of such amount for the improvement of public educational facilities within the community and to increase, improve and preserve the number of dwelling units in the community for low-income households.

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]~~ ***Except as otherwise provided in paragraph (b) of subsection 1, the*** agency may expend or otherwise commit money for the purposes of subsection 1 outside the boundaries of the redevelopment area.

Sec. 15. **Section 6 of Senate Bill No. 92 of this session is hereby repealed.**

~~[Sec. 13.]~~ ***Sec. 16.*** This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

Section 6 of Senate Bill No. 92 of this session:

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]~~ ***:***

(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 ~~[.]~~ ***; 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.

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. 360 as amended by Amendment No. 925 requires public agencies that use redevelopment funds for redevelopment projects being built as a public work to submit an employment plan as specified in statute. In addition, this bill provides that certain private developers who construct a redevelopment project for the purpose of conveying or leasing the property to an unknown owner or lessee may voluntarily submit an employment plan. This bill also requires employment plans to include certain information about preferences for hiring persons living within the redevelopment area.

Senate Bill No. 360 requires an agency that proposes to provide an incentive to certain developers to withhold payment of 10 percent of the incentive unless at least 15 percent of the employees of contractors, subcontractors, vendors and suppliers of the developer are residents of the redevelopment area.

This bill allows for redevelopment plans adopted before January 1, 1991, and any amendments to the redevelopment plan, to terminate on various timeframes based upon a certain population threshold. This bill also requires an agency of a city whose population exceeds a certain threshold, on or after July 1, 2011, to use one-half of its low-income housing set-aside funds for economic development, renewable energy projects, education projects and the development of affordable housing within an enterprise community specified in statute.

Amendment adopted.

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

Senate Bill No. 371.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 948.

"SUMMARY—Makes various changes concerning the protection of children. (BDR 38-3)"

"AN ACT relating to children; requiring the nomination and appointment of a person who is legally responsible for the ~~[health]~~ **psychiatric** care of a child who is placed in the custody of an agency which provides child welfare services; establishing the duties and responsibilities of such a legally responsible person; ~~[imposing criminal and civil liability on a legally responsible person for certain acts committed by or harm occurring to a child under certain circumstances;]~~ revising provisions governing the provision of ~~[mental health]~~ **psychiatric** care to children in the custody of agencies which provide child welfare services; revising provisions relating to the health care records of children who are placed in the custody of such an agency; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, each agency which provides child welfare services is required to establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. (NRS 432B.197) **Sections 2-7** of this bill require the appointment of a person who is legally responsible for the ~~[health]~~ **psychiatric** care of each child who is in the custody of such an agency and who requires ~~[mental health]~~ **psychiatric** care, including making all decisions concerning services, treatment and psychotropic medications provided to such children.

Section 3 of this bill requires an agency which provides child welfare services to nominate a person who is legally responsible for the ~~[health]~~ **psychiatric** care of a child who is in the custody of the agency and who requires ~~[mental health]~~ **psychiatric** care. The court with jurisdiction over the child is required pursuant to **section 7** of this bill to appoint a person who is legally responsible for the ~~[health]~~ **psychiatric** care of the child. The court may appoint the person nominated by the agency or may appoint any other person who the court determines is qualified to carry out the duties and responsibilities of a person who is legally responsible for the ~~[health]~~ **psychiatric** care of the child**.** ***To the extent that a parent or legal guardian of the child is able and willing to serve as the person who is legally responsible for the psychiatric care of the child, the parent or guardian must be nominated and appointed pursuant to this bill.***

Section 4 of this bill requires the person who is legally responsible for the ~~[health]~~ **psychiatric** care of a child to provide written consent or, in writing, deny consent for each appointment or for a course of routine treatment for ~~[mental health]~~ **psychiatric** care of the child and to maintain current information concerning the medical history and the emotional, behavioral and educational needs of the child. **Section 4 also requires the person who is legally responsible for the psychiatric care of a child to notify the**

parent or legal guardian, if applicable, and the agency which provides child welfare services of each appointment.

Section 5 of this bill requires the person who is legally responsible for the ~~[health]~~ **psychiatric** care of a child to approve or deny the administration of each psychotropic medication recommended for the child and to provide notice of the approval or denial. **Sections 5 and 9** of this bill prohibit the administration of a psychotropic medication to a child in the custody of an agency without consent from the person who is legally responsible for the ~~[health]~~ **psychiatric** care of the child. **Section 5.5 of this bill sets forth circumstances in which a child in the custody of an agency which provides child welfare services may be administered a psychotropic medication without the approval of the person who is legally responsible for the psychiatric care of the child, including in cases of emergency.**

~~[Section 6 of this bill requires that reasonable care be taken by a person who is legally responsible for the health care of a child and imposes criminal and civil liability for certain acts committed by or harm occurring to the child under certain circumstances.]~~

Section 14 of this bill requires certain providers of health care to obtain written consent from a person who is legally responsible for the ~~[health]~~ **psychiatric** care of a child before providing ~~[mental health]~~ **psychiatric** care to a child in the custody of an agency which provides child welfare services and requires the provider of health care to keep a copy of the consent in the health care record of the child.

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. ***As used in NRS 432B.197 and sections 2 to 6, inclusive, of this act, unless the context otherwise requires, ~~["person professionally qualified in the field of psychiatric mental health" has the meaning ascribed to it in NRS 433A.018.]~~ the words and terms defined in sections 2.3 and 2.5 of this act have the meanings ascribed to them in those sections.***

Sec. 2.3. "Person professionally qualified in the field of psychiatric mental health" has the meaning ascribed to it in NRS 433A.018.

Sec. 2.5. "Psychiatric care" means the provision of psychiatric services and psychiatric treatment and the administration of psychotropic medication.

Sec. 2.7. The provisions of NRS 432B.197 and sections 2 to 6, inclusive, of this act, do not relieve an agency which provides child welfare services of any responsibility of the agency relating to the general health and well-being of a child in the custody of the agency.

Sec. 3. ***1. If a child who is in the custody of an agency which provides child welfare services has a prescription for a psychotropic medication upon entering the custody of the agency or if the agency determines that a child may be in need of ~~[mental health]~~ psychiatric care,***

the agency shall nominate, pending appointment by a court pursuant to section 7 of this act, a person who is legally responsible for the ~~[health]~~ psychiatric care of the child. A person nominated pursuant to this subsection shall be deemed to be the person who is legally responsible for the ~~[health]~~ psychiatric care of the child pending approval by a court pursuant to section 7 of this act.

2. Upon nominating a person who is legally responsible for the ~~[health]~~ psychiatric care of a child pursuant to this section, the agency which provides child welfare services shall petition the court with jurisdiction over the child for the appointment of the nominee as the person who is legally responsible for the ~~[health]~~ psychiatric care of the child. A petition filed pursuant to this subsection may be heard by the court at the next hearing of the court conducted pursuant to NRS 432B.410 to 432B.590, inclusive, and section 7 of this act or at a hearing for the express purpose of appointing a person pursuant to section 7 of this act.

3. ~~[A]~~ The person who is legally responsible for the ~~[health]~~ psychiatric care of a child may be ~~[:~~

~~(a) A]~~ a parent or legal guardian of the child ~~[;~~

~~(b)]~~ or, if a parent or legal guardian of the child is not able or willing to act as the person who is legally responsible for the psychiatric care of the child:

(a) The attorney for the child;

~~[(c)]~~ (b) The guardian ad litem of the child;

~~[(d)]~~ (c) The foster parent or other provider of substitute care for the child; ~~[or~~

~~(e)]~~ (d) An employee of the agency which provides child welfare services; or

(e) Any other person who a court determines is qualified to carry out the duties and responsibilities prescribed by NRS 432B.197 and sections 2 to 6, inclusive, of this act and any policies adopted pursuant thereto,

➥ who is appointed by a court pursuant to NRS 432B.410 to 432B.590, inclusive, and section 7 of this act.

Sec. 4. *1. A person who is legally responsible for the ~~[health]~~ psychiatric care of a child who is in the custody of an agency which provides child welfare services is responsible for the procurement and oversight of all ~~[medical and]~~ psychiatric care for the child and shall make all decisions relating to the ~~[mental health]~~ psychiatric care and related treatment of the child, including, without limitation, the approval of all psychiatric services, psychiatric treatment and psychotropic medication that may be administered to the child.*

2. A person who is appointed to be legally responsible for the ~~[health]~~ psychiatric care of a child shall:

(a) To the extent that such information is available, maintain current information concerning the medical history of the child, including, without limitation:

(1) All known allergies of the child;

(2) Past and current illnesses and treatments of the child;

(3) Past and current psychiatric history and treatments of the child;

(4) Past and current psychiatric history of the family of the child; and

(5) Any other information which is necessary to make decisions relating to the medical treatment of the child.

(b) Maintain current information concerning the emotional, behavioral, educational and related needs of the child.

(c) Attend each visit of the child to receive ~~[mental health]~~ psychiatric care or be available by telephone to discuss the visit with the person professionally qualified in the field of psychiatric mental health who treats the child.

3. Except as otherwise provided in this subsection, a person who is legally responsible for the ~~[health]~~ psychiatric care of a child shall provide written consent or , in writing, deny consent for each visit of the child with a person professionally qualified in the field of psychiatric mental health who treats the child. Written consent is not required for each visit if the visit is part of the routine care of the child and the written consent approves such routine care. Written consent for routine care may be revoked at any time.

4. Written consent provided pursuant to subsection 3 must include, without limitation:

(a) The name and address of the person with whom the child currently resides or the name and location of the agency which provides child welfare services where the child currently resides;

(b) The name of the person who is legally responsible for the ~~[health]~~ psychiatric care of the child;

(c) The name of the person professionally qualified in the field of psychiatric mental health who treats the child;

(d) The date, time and location of the visit or, if the consent is for routine visits, the frequency and duration of the routine visits; and

(e) If the person who is legally responsible for the ~~[health]~~ psychiatric care of the child does not attend a visit, a written statement that the person is aware of and is available to discuss the visit and the treatment recommended for the child with the person professionally qualified in the field of psychiatric mental health.

5. A person who is legally responsible for the psychiatric care of a child shall, not less than 1 week before each visit of the child with a person professionally qualified in the field of psychiatric mental health who treats the child, notify:

(a) The agency which provides child welfare services that has custody of the child; and

(b) If the person is not the parent or legal guardian of the child, the parent or legal guardian,

➥ of the date, time and location of each visit of the child with a person professionally qualified in the field of psychiatric mental health who treats the child. Unless a court order prohibits such visitation, a parent or legal guardian of the child may attend each visit of the child with a person professionally qualified in the field of psychiatric mental health who treats the child.

Sec. 5. *1. A person who is legally responsible for the ~~[health]~~ psychiatric care of a child who is in the custody of an agency which provides child welfare services shall approve or deny the administration of a psychotropic medication to the child:*

(a) After considering the purpose, benefits, risks, alternatives, side effects and complications of each psychotropic medication recommended by the person professionally qualified in the field of psychiatric mental health who treats the child;

(b) After considering any additional information provided by the person professionally qualified in the field of psychiatric mental health who treats the child; ~~[and]~~

(c) After considering the possible clinical indications to suspend or terminate the psychotropic medication and the potential consequences of such an action; and

(d) In accordance with the policies adopted by the agency which provides child welfare services pursuant to NRS 432B.197.

2. If a person who is legally responsible for the ~~[health]~~ psychiatric care of a child:

(a) Approves the administration of a psychotropic medication to the child, the person shall provide written consent to the person professionally qualified in the field of psychiatric mental health, the agency which provides child welfare services and the foster parent or other provider of substitute care for the child for the administration of the psychotropic medication. The written consent must include:

(1) The name of the child;

(2) The name, address and telephone number of the person who is legally responsible for the ~~[health]~~ psychiatric care of the child;

(3) The name, purpose and expected time frame for improvement for each medication;

(4) The dosage, times of administration and, if applicable, the number of units at each administration of the medication which may be administered to the child;

(5) The duration of the course of treatment for the administration of the medication;

(6) A description of the possible risks, side effects interactions with other medications or foods, and complications of the medication; and

(7) If applicable, the specific authorization required by subsection 4.

(b) Denies the administration of a psychotropic medication to the child, the person shall provide written notice of the denial to the agency which provides child welfare services.

3. ~~[The]~~ Except as otherwise provided in section 5.5 of this act, the foster parent or other provider of substitute care for a child in the custody of an agency which provides child welfare services shall not administer a psychotropic medication to the child unless:

(a) The person who is legally responsible for the ~~[health]~~ psychiatric care of the child has consented to the administration of the medication; and

(b) The psychotropic medication is administered in accordance with the consent of the person who is legally responsible for the ~~[health]~~ psychiatric care of the child.

4. The person who is legally responsible for the ~~[health]~~ psychiatric care of a child must, in addition to providing written consent for the administration of a psychotropic medication, specifically approve:

(a) The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

(b) The prescribing of any psychotropic medication for use by a child who is less than 4 years of age;

(c) The concurrent use by a child of three or more classes of psychotropic medication; and

(d) The concurrent use by a child of two psychotropic medications of the same class.

Sec. 5.5. 1. An agency which provides child welfare services may allow the administration of, and a foster parent or other provider of substitute care for a child in the custody of an agency which provides child welfare services may administer, a psychotropic medication to a child without obtaining consent from a person who is legally responsible for the psychiatric care of the child if:

(a) The child has a prescription for a psychotropic medication upon entering the custody of the agency and the agency continues administering the psychotropic medication in accordance with that prescription; or

(b) A physician determines that an emergency exists which requires the immediate administration of a psychotropic medication before consent may be obtained from the person who is legally responsible for the psychiatric care of the child. The agency which provides child welfare services shall obtain documentation, which may include an incident report or other documentation which demonstrates that an emergency existed, regarding the circumstances surrounding the administration of the psychotropic medication.

2. If a psychotropic medication is administered pursuant to this section, the agency which provides child welfare services shall take reasonable efforts, as soon as practicable, to notify the parent or legal guardian of the child and the person who is legally responsible for the psychiatric care of the child of the administration of the psychotropic medication.

Sec. 6. ~~[*A person who is legally responsible for the health care of a child in the custody of an agency which provides child welfare services:*~~

~~*1. Shall exercise reasonable care in carrying out his or her duties and responsibilities pursuant to NRS 432B.197 and sections 2 to 6, inclusive, of this act and any policies adopted pursuant thereto.*~~

~~*2. Is liable for any injury or damage which is caused or sustained by the child as a result of the negligence of the person in carrying out his or her duties and responsibilities pursuant to NRS 432B.197 and sections 2 to 6, inclusive, of this act and any policies adopted pursuant thereto, including, without limitation, any criminal or civil liability to which a parent or legal guardian of the child would be subject relating to the health care of the child.*~~ **(Deleted by amendment.)**

Sec. 7. ***If proceedings pursuant to this chapter involve the protection of a child who requires*** ~~*[mental health]*~~ ***psychiatric care, including, without limitation, any child who is administered a psychotropic medication, the court shall appoint the parent or legal guardian of the child as the person who is legally responsible for the*** ~~*[health]*~~ ***psychiatric care of the child*** ~~*[.]*~~ ***or, if a parent or legal guardian of the child is not able or willing to act as the person who is legally responsible for the psychiatric care of the child:***

1. The person nominated by the agency which provides child welfare services pursuant to section 3 of this act; or

2. Any other person who the court determines is qualified to carry out the duties and responsibilities of a person who is legally responsible for the ~~*[health]*~~ ***psychiatric care of the child.***

Sec. 8. NRS 432B.190 is hereby amended to read as follows:

432B.190 The Division of Child and Family Services shall, in consultation with each agency which provides child welfare services, adopt:

1. Regulations establishing reasonable and uniform standards for:

(a) Child welfare services provided in this State;

(b) Programs for the prevention of abuse or neglect of a child and the achievement of the permanent placement of a child;

(c) The development of local councils involving public and private organizations;

(d) Reports of abuse or neglect, records of these reports and the response to these reports;

(e) Carrying out the provisions of NRS 432B.260, including, without limitation, the qualifications of persons with whom agencies which provide child welfare services enter into agreements to provide services to children and families;

(f) The management and assessment of reported cases of abuse or neglect;

(g) The protection of the legal rights of parents and children;

(h) Emergency shelter for a child;

(i) The prevention, identification and correction of abuse or neglect of a child in residential institutions;

(j) Developing and distributing to persons who are responsible for a child's welfare a pamphlet that is written in language which is easy to understand, is available in English and in any other language the Division determines is appropriate based on the demographic characteristics of this State and sets forth:

(1) Contact information regarding persons and governmental entities which provide assistance to persons who are responsible for the welfare of children, including, without limitation, persons and entities which provide assistance to persons who are being investigated for allegedly abusing or neglecting a child;

(2) The procedures for taking a child for placement in protective custody; and

(3) The state and federal legal rights of:

(I) A person who is responsible for a child's welfare and who is the subject of an investigation of alleged abuse or neglect of a child, including, without limitation, the legal rights of such a person at the time an agency which provides child welfare services makes initial contact with the person in the course of the investigation and at the time the agency takes the child for placement in protective custody, and the legal right of such a person to be informed of any allegation of abuse or neglect of a child which is made against the person at the initial time of contact with the person by the agency; and

(II) Persons who are parties to a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, ***and section 7 of this act*** during all stages of the proceeding; and

(k) Making the necessary inquiries required pursuant to NRS 432B.397 to determine whether a child is an Indian child.

2. Regulations, which are applicable to any person who is authorized to place a child in protective custody without the consent of the person responsible for the child's welfare, setting forth reasonable and uniform standards for establishing whether immediate action is necessary to protect the child from injury, abuse or neglect for the purposes of determining whether to place the child into protective custody pursuant to NRS 432B.390. Such standards must consider the potential harm to the child in remaining in his or her home, including, without limitation:

(a) Circumstances in which a threat of harm suggests that a child is in imminent danger of serious harm.

(b) The conditions or behaviors of the child's family which threaten the safety of the child who is unable to protect himself or herself and who is dependent on others for protection, including, without limitation, conditions

or behaviors that are beyond the control of the caregiver of the child and create an imminent threat of serious harm to the child.

➥ The Division of Child and Family Services shall ensure that the appropriate persons or entities to whom the regulations adopted pursuant to this subsection apply are provided with a copy of such regulations. As used in this subsection, "serious harm" includes the threat or evidence of serious physical injury, sexual abuse, significant pain or mental suffering, extreme fear or terror, extreme impairment or disability, death, substantial impairment or risk of substantial impairment to the child's mental or physical health or development.

3. Such other regulations as are necessary for the administration of NRS 432B.010 to 432B.606, inclusive ~~[.]~~ ***, and sections 2 to 7, inclusive, of this act.***

Sec. 9. NRS 432B.197 is hereby amended to read as follows:

432B.197 ***1.*** Each agency which provides child welfare services shall establish appropriate policies to ensure that children in the custody of the agency have timely access to ***and safe administration of*** clinically appropriate psychotropic medication. The policies must include, without limitation, policies concerning:

~~[1.]~~ ***(a)*** The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

~~[2.]~~ ***(b)*** Prescribing any psychotropic medication for use by a child who is less than 4 years of age;

~~[3.]~~ ***(c)*** The concurrent use by a child of three or more classes of psychotropic medication; ~~[and~~

~~4.]~~ ***(d)*** The concurrent use by a child of two psychotropic medications of the same class ~~[.]~~ ***; and***

(e) The criteria for nominating persons who are legally responsible for the ~~[health]~~ psychiatric care of children in the custody of agencies which provide child welfare services pursuant to NRS 432B.197 and sections 2 to 6, inclusive, of this act and the policies adopted pursuant thereto.

2. ~~[An]~~ Except as otherwise provided in section 5.5 of this act, an agency which provides child welfare services shall not allow the administration of a psychotropic medication to a child in the custody of the agency unless:

(a) The person who is legally responsible for the ~~[health]~~ psychiatric care of the child has consented to the administration of the medication; and

(b) The psychotropic medication is administered in accordance with the consent of the person who is legally responsible for the ~~[health]~~ psychiatric care of the child.

3. An agency which provides child welfare services shall, at least quarterly, review the records for each child in the custody of the agency who is administered a psychotropic medication to determine whether the medication is being administered in accordance with NRS 432B.197 and sections 2 to 6, inclusive, of this act and the policies adopted pursuant thereto. The agency may use the results of the quarterly reviews to determine whether the placement of the child should be continued.

Sec. 10. NRS 432B.430 is hereby amended to read as follows:

432B.430 1. Except as otherwise provided in subsections 3 and 4 and NRS 432B.457, in each judicial district that includes a county whose population is 400,000 or more:

(a) Any proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, ***and section 7 of this act,*** other than a hearing held pursuant to subsections 1 to 4, inclusive, of NRS 432B.530 or a hearing held pursuant to subsection 5 of NRS 432B.530 when the court proceeds immediately, must be open to the general public unless the judge or master, upon his or her own motion or upon the motion of another person, determines that all or part of the proceeding must be closed to the general public because such closure is in the best interests of the child who is the subject of the proceeding. In determining whether closing all or part of the proceeding is in the best interests of the child who is the subject of the proceeding, the judge or master must consider and give due weight to the desires of that child.

(b) If the judge or master determines pursuant to paragraph (a) that all or part of a proceeding must be closed to the general public:

(1) The judge or master must make specific findings of fact to support such a determination; and

(2) The general public must be excluded and only those persons having a direct interest in the case, as determined by the judge or master, may be admitted to the proceeding.

(c) Any proceeding held pursuant to subsections 1 to 4, inclusive, of NRS 432B.530 and any proceeding held pursuant to subsection 5 of NRS 432B.530 when the court proceeds immediately must be closed to the general public unless the judge or master, upon his or her own motion or upon the motion of another person, determines that all or part of the proceeding must be open to the general public because opening the proceeding in such a manner is in the best interests of the child who is the subject of the proceeding. In determining whether opening all or part of the proceeding is in the best interests of the child who is the subject of the proceeding, the judge or master must consider and give due weight to the desires of that child. If the judge or master determines pursuant to this paragraph that all or part of a proceeding must be open to the general public, the judge or master must make specific findings of fact to support such a determination. Unless the judge or master determines pursuant to this paragraph that all or part of a proceeding described in this paragraph must be open to the general public, the general public must be excluded and only

those persons having a direct interest in the case, as determined by the judge or master, may be admitted to the proceeding.

2. Except as otherwise provided in subsections 3 and 4 and NRS 432B.457, in each judicial district that includes a county whose population is less than 400,000:

(a) Any proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, ***and section 7 of this act*** must be closed to the general public unless the judge or master, upon his or her own motion or upon the motion of another person, determines that all or part of the proceeding must be open to the general public because opening the proceeding in such a manner is in the best interests of the child who is the subject of the proceeding. In determining whether opening all or part of the proceeding is in the best interests of the child who is the subject of the proceeding, the judge or master shall consider and give due weight to the desires of that child.

(b) If the judge or master determines pursuant to paragraph (a) that all or part of a proceeding must be open to the general public, the judge or master must make specific findings of fact to support such a determination.

(c) Unless the judge or master determines pursuant to paragraph (a) that all or part of a proceeding must be open to the general public, the general public must be excluded and only those persons having a direct interest in the case, as determined by the judge or master, may be admitted to the proceeding.

3. Except as otherwise provided in subsection 4 and NRS 432B.457, in a proceeding held pursuant to NRS 432B.470, the general public must be excluded and only those persons having a direct interest in the case, as determined by the judge or master, may be admitted to the proceeding.

4. In conducting a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, ***and section 7 of this act,*** a judge or master shall keep information confidential to the extent necessary to obtain federal funds in the maximum amount available to this state.

Sec. 11. NRS 432B.4675 is hereby amended to read as follows:

432B.4675 Upon the entry of a final order by the court establishing a guardianship pursuant to NRS 432B.4665:

1. The custody of the child by the agency which has legal custody of the child is terminated;

2. The proceedings concerning the child conducted pursuant to NRS 432B.410 to 432B.590, inclusive, ***and section 7 of this act*** terminate; and

3. Unless subsequently ordered by the court to assist the court, the following agencies and persons are excused from any responsibility to participate in the guardianship case:

(a) The agency which has legal custody of the child; ~~[and]~~

(b) Any counsel or guardian ad litem appointed by the court to assist in the proceedings conducted pursuant to NRS 432B.410 to 432B.590, inclusive ~~[.]~~ ***, and section 7 of this act; and***

(c) Any person nominated or appointed as the person who is legally responsible for the ~~[health]~~ psychiatric care of the child pursuant to section 3 or 7 of this act, respectively.

Sec. 12. NRS 62A.380 is hereby amended to read as follows:

62A.380 1. In carrying out the objects and purposes of this title, the juvenile court may use the services and facilities of the agency which provides child welfare services.

2. The agency which provides child welfare services shall determine the plans, placements and services to be provided to any child pursuant to the provisions of this title, chapter 432 of NRS and NRS 432B.010 to 432B.400, inclusive ~~[.]~~ ***, and sections 2 to 6, inclusive, of this act.***

3. As used in this section, "agency which provides child welfare services" means:

(a) In a county whose population is less than 100,000, the local office of the Division of Child and Family Services; or

(b) In a county whose population is 100,000 or more, the agency of the county,

➥ which provides or arranges for necessary child welfare services.

Sec. 13. NRS 433B.130 is hereby amended to read as follows:

433B.130 1. The Administrator shall:

(a) Administer, in accordance with the policies established by the Commission, the programs of the Division for the mental health of children.

(b) Establish appropriate policies to ensure that children in division facilities have timely access to clinically appropriate psychotropic medication that are consistent with the ~~[policies established pursuant to]~~ ***provisions of*** NRS 432B.197 ~~[.]~~ ***and sections 2 to 6, inclusive, of this act and the policies adopted pursuant thereto.***

2. The Administrator may:

(a) Appoint the administrative personnel necessary to operate the programs of the Division for the mental health of children.

(b) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

3. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Director of the Department.

4. The Administrator may accept children referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.

5. The Administrator may enter into agreements with the Administrator of the Division of Mental Health and Developmental Services of the Department for the care and treatment of clients of the Division of Child and Family Services at any facility operated by the Division of Mental Health and Developmental Services.

Sec. 14. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A provider of health care who is asked to provide ~~[mental health]~~ psychiatric care to a child who is in the custody of an agency which provides child welfare services shall not examine, treat or otherwise provide ~~[mental health]~~ psychiatric services to the child unless consent has been obtained from the person who is legally responsible for the ~~[health]~~ psychiatric care of the child pursuant to NRS 432B.197 and sections 2 to 6, inclusive, of this act and the policies adopted pursuant thereto.

2. A copy of the written consent required by section 4 of this act must be maintained in the health care record of the child.

Sec. 15. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by a specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, physician assistant, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor, athletic trainer, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, ***and section 14 of this act,*** the term includes a facility that maintains the health care records of patients.

Sec. 16. ~~[This act becomes effective on July 1, 2011.]~~ **(Deleted by amendment.)**

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

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

Senate Bill No. 371, as amended by Amendment No. 948, requires the nomination and appointment of a person legally responsible for the psychiatric care of a child in the custody of a child welfare agency. The person appointed as legally responsible for a child may be a parent or legal guardian, an attorney for the child, a guardian ad litem, a foster parent or provider of substitute care, an employee of the child welfare agency, or a person determined by the court to be qualified to carry out the duties prescribed in NRS 432B.

The person legally responsible for the psychiatric care of a child in the custody of a child welfare agency is responsible for the procurement and oversight of all psychiatric care for the child, including the approval of all psychiatric services, treatment and psychotropic medications administered to the child.

This bill becomes effective October 1, 2011.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 427.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 949.

"SUMMARY—Provides for the merger ~~[of various]~~ **, movement and reorganization of certain** state agencies**.** ~~[into the Department of Administration.]~~ (BDR 18-1161)"

"AN ACT relating to state governmental administration; providing for the merger of various state agencies into the Department of Administration; creating new divisions of the Department of Administration; **creating the new Department of Tourism and Cultural Affairs;** providing for the dissolution of the **existing** Department of Cultural Affairs and ~~[several]~~ **the placement** of its constituent parts ~~[;]~~ **under the management of other departments; making certain appropriations;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill provides for: ~~[(1)]~~ the dissolution of the Department of Cultural Affairs ~~[, with the exception of the Division of State Library and Archives, the State Council on Libraries and Literacy and the State Historical Records Advisory Board, which are reorganized under the Department of Administration; (2) elimination of the Division of Museums and History, the Office of Historic Preservation, the Nevada Arts Council and the Commission for Cultural Affairs; (3)]~~ **and the distribution of the sub-parts of the Department of Cultural Affairs among: (1) the Department of Administration; (2) the State Department of Conservation and Natural Resources; and (3) the newly-formed Department of Tourism and Cultural Affairs. This bill also provides for the** elimination of the Department of Personnel and its replacement by a new division of the Department of Administration to be known as the Division of Human Resource Management; ~~[(4)]~~ **(1)** significant restriction of the powers and duties of the State Public Works Board, such that the Board will only be empowered to make recommendations concerning priority of construction, adopt regulations and preside over certain appeals; ~~[(5)]~~ **(2)** reclassification of the Buildings and Grounds Division of the Department of Administration as a section instead of a division; ~~[(6)]~~ **(3)** placement of both the State Public Works Board and the Buildings and Grounds Division under a new division of the Department of Administration to be known as the State Public Works Division; ~~[(7)]~~ **(4)** assumption of most of the powers and duties of the State Public Works Board by the State Public Works Division; and ~~[(8)]~~ **(5)** elimination of the Department of Information Technology and its replacement by a new division of the Department of Administration to be known as the Division of Enterprise Information Technology Services.

Section 96 of this bill directs the Legislative Counsel to appropriately change any references to an officer, agency or other entity whose name is changed, whose responsibilities are transferred or whose responsibilities are eliminated pursuant to the provisions of this bill. Because of **section ~~[96,]~~ 148,** necessary changes in references to entities affected by the bill may be

made during the process of codifying statutes and, thus, need not be shown repeatedly in the bill.

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

Section 1. **NRS 223.085 is hereby amended to read as follows:**

223.085 1. The Governor may, within the limits of available money, employ such persons as he or she deems necessary to provide an appropriate staff for the Office of the Governor, including, without limitation, the Office of Science, Innovation and Technology and the Governor's mansion. Any such employees are not in the classified or unclassified service of the State and serve at the pleasure of the Governor.

2. The Governor shall:

(a) Determine the salaries and benefits of the persons employed pursuant to subsection 1, within limits of money available for that purpose; and

(b) Adopt such rules and policies as he or she deems appropriate to establish the duties and employment rights of the persons employed pursuant to subsection 1.

3. The Governor may:

(a) Appoint a Chief Information Officer of the State; and

(b) Designate the Administrator as the Chief Information Officer of the State.

➥ If the Administrator is so appointed, the Administrator shall serve as the Chief Information Officer of the State without additional compensation.

4. As used in this section, "Administrator" means the Administrator of the Division of Enterprise Information Technology Services of the Department of Administration.

Sec. 2. NRS 223.121 is hereby amended to read as follows:

223.121 1. The Director may, upon the election of each new Governor, enter into a contract with an artist for the purpose of procuring a portrait of that Governor for display in the Capitol Building.

2. The portrait must be painted in oil colors and appropriately framed. The painting and framing must be done in the same manner, style and size as the portraits of former Governors of the State displayed in the Capitol Building.

3. The contract price must not exceed the appropriation made for this purpose to the Account for the Governor's Portrait in the State General Fund. The contract price must include the cost of the portrait and the frame.

4. The portrait and frame are subject to the approval of the Governor.

5. Upon delivery of the approved, framed portrait to the Secretary of State and its acceptance by the Director, the State Controller shall draw his or her warrant in an amount equal to the contract price and the State Treasurer shall pay the warrant from the Account for the Governor's Portrait. Any balance remaining in the Account immediately lapses to the State General Fund.

6. As used in this section, "Director" means the Director of the Department of ***Tourism and*** **Cultural Affairs.** ~~*[Administration.]*~~

~~[Sec. 2.]~~ ***Sec. 3.*** NRS 225.250 is hereby amended to read as follows:

225.250 1. The Advisory Committee shall:

(a) Advise the Director of the Department of [Cultural Affairs] ***Administration*** concerning the Repository and make recommendations to support greater use of the Repository and collection of materials for the Repository;

(b) Assist the Secretary of State in identifying and proposing programs that support participatory democracy and solutions to any problem concerning the level of participatory democracy, including, without limitation, proposing methods to involve the news media in the process of addressing and proposing solutions to such a problem;

(c) Make recommendations to and discuss recommendations with the Secretary of State concerning matters brought to the attention of the Advisory Committee that relate to a program, activity, event or any combination thereof designed to increase or facilitate participatory democracy, including, without limitation, the interaction of citizens with governing bodies in the formulation and implementation of public policy;

(d) Establish a "Jean Ford Democracy Award" to honor citizens who perform exemplary service in promoting participatory democracy in this State;

(e) Support projects by national, state and local entities that encourage and advance participatory democracy, including programs established by the National Conference of State Legislatures, the State Bar of Nevada, and other public and private organizations; and

(f) Advise the Secretary of State and the Governor concerning the substance of any proclamation issued by the Governor pursuant to NRS 236.035.

2. The Advisory Committee may establish a panel to assist the Advisory Committee in carrying out its duties and responsibilities. The panel may consist of:

(a) Representatives of organizations, associations, groups or other entities committed to improving participatory democracy in this State, including, without limitation, representatives of committees that are led by youths and established to improve the teaching of the principles of participatory democracy in the schools, colleges and universities of this State; and

(b) Any other interested persons with relevant knowledge.

Sec. 4. **Chapter 231 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 8.5, inclusive, of this act.**

Sec. 5. ***As used in NRS 231.160 to 231.360, inclusive, and sections 5 to 8.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 and 7 of this act have the meanings ascribed to them in those sections.***

Sec. 6. "Department" means the Department of Tourism and Cultural Affairs.

Sec. 7. "Director" means the Director of the Department.

Sec. 8. The creation of the Department does not affect any bequest, devise, endowment, trust, allotment or other gift made to a division or institution of the Department and those gifts inure to the benefit of the division or institution and remain subject to any conditions or restraints placed on the gifts.

Sec. 8.5. 1. The Director shall, from among employees in budgeted positions within the Division of Tourism and, in consultation with the Commission on Tourism, appoint an Administrator of the Division of Tourism. The Administrator must be appointed by the Director with special reference to the Administrator's training, experience, capacity and interest in tourism.

2. The Administrator of the Division of Tourism must have:

(a) A bachelor's degree; and

(b) Completed course work and accumulated experience in the tourism sector with at least 5 years of progressively responsible work experience in the administration of tourism, at least 2 years of which must have been in a supervisory capacity.

3. Except as otherwise provided pursuant to subsection 4 of NRS 231.230, the Administrator of the Division of Tourism is in the unclassified service of the State.

4. The Administrator of the Division of Tourism may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of the Administrator's duties.

5. The Administrator of the Division of Tourism, in consultation with the Director, is responsible to the Director for the general administration of the Division of Tourism and for the submission of its budgets, subject to administrative supervision by the Director.

6. The Administrator of the Division of Tourism shall direct the work of the Division, administer the Division and perform such other duties as the Director may, from time to time, prescribe.

7. To carry out the relevant provisions of NRS 231.160 to 231.360, inclusive, and sections 5 to 8.5, inclusive, of this act, and within the limit of money available to him or her, the Administrator of the Division of Tourism may enter into contracts and other lawful agreements with:

(a) Natural persons, organizations and institutions for services furthering the mission and goals of the Division of Tourism and the Commission on Tourism; and

(b) Local, regional and national associations for cooperative endeavors furthering the mission and goals of the programs of the Division of Tourism.

8. The Administrator of the Division of Tourism may accept gifts, contributions and bequests of unrestricted money from natural persons,

foundations, corporations and other organizations and institutions to further the mission and goals of the programs of the Division.

Sec. 9. **NRS 231.015 is hereby amended to read as follows:**

231.015 1. The Interagency Committee for Coordinating Tourism and Economic Development is hereby created. The Committee consists of the Governor, who is its Chair, the Lieutenant Governor, who is its Vice Chair, the Director of the ~~[Commission on]~~ ***Department of*** Tourism ~~[,]~~ ***and Cultural Affairs,*** the Executive Director of the Commission on Economic Development and such other members as the Governor may from time to time appoint. The appointed members of the Committee serve at the pleasure of the Governor.

2. The Committee shall meet at the call of the Governor.

3. The Committee shall:

(a) Identify the strengths and weaknesses in state and local governmental agencies which enhance or diminish the possibilities of tourism and economic development in this State.

(b) Foster coordination and cooperation among state and local governmental agencies, and enlist the cooperation and assistance of federal agencies, in carrying out the policies and programs of the ~~[Commission on]~~ ***Department of*** Tourism ***and Cultural Affairs*** and the Commission on Economic Development.

(c) Formulate cooperative agreements between the ~~[Commission on]~~ ***Department of*** Tourism ***and Cultural Affairs*** or the Commission on Economic Development, and state and other public agencies pursuant to the Interlocal Cooperation Act, so that ~~[each of those commissions]~~ ***the Department and Commission*** may receive applications from and, as appropriate, give governmental approval for necessary permits and licenses to persons who wish to promote tourism, develop industry or produce motion pictures in this State.

4. The Governor may from time to time establish regional or local subcommittees to work on regional or local problems of economic development or the promotion of tourism.

Sec. 10. **NRS 231.160 is hereby amended to read as follows:**

231.160 ~~[There is hereby created a Commission on]~~ ***The Department of*** Tourism ~~[,]~~ ***and Cultural Affairs is hereby created,*** consisting of:

1. ~~[A]~~ ***The*** Division of Tourism; ~~[and~~

~~2. A Division of Publications, including Nevada Magazine.]~~

2. The Division of Museums and History, created by NRS 381.004;

3. The Board of Museums and History, created by NRS 381.002;

4. The Nevada Arts Council, created by NRS 233C.025;

5. The Nevada Indian Commission, created by NRS 233A.020;

6. The Board of the Nevada Arts Council, created by NRS 233C.030;

7. The Commission on Tourism; and

8. The Commission for Cultural Affairs, created by NRS 233C.200.

Sec. 11. **NRS 231.200 is hereby amended to read as follows:**

231.200 ~~[The]~~ ***Except as otherwise provided in section 8.5 of this act, the*** Commission on Tourism:

1. Shall establish the policies and approve the programs and budgets of the Division of Tourism ~~[and Division of Publications]~~ concerning:

(a) The promotion of tourism and travel in this State; and

(b) The publication of Nevada Magazine and other promotional material.

2. May adopt regulations to administer and carry out the policies and programs of ~~[those divisions.]~~ ***the Division of Tourism.***

3. May from time to time create special advisory committees to advise it on special problems of tourism. Members of special advisory committees, other than members of the Commission, may be paid the per diem allowance and travel expenses provided for state officers and employees, as the budget of the Commission permits.

Sec. 12. **NRS 231.210 is hereby amended to read as follows:**

231.210 The Director ***:*** ~~[of the Commission on Tourism:]~~

1. Must be appointed by the Governor from a list of three persons submitted to the Governor by the ***Lieutenant Governor from recommendations made to the Lieutenant Governor by the:***

(a) Members of the Commission ~~[,]~~ ***on Tourism;***

(b) Chair of the Commission for Cultural Affairs;

(c) Chair of the Board of Museums and History;

(d) Chair of the Nevada Indian Commission; and

(e) Chair of the Board of the Nevada Arts Council.

2. ~~[Is responsible to the Commission and serves at its pleasure.~~

~~3.]~~ Shall, except as otherwise provided in NRS 284.143, devote his or her entire time to the duties of his or her office and shall not follow any other gainful employment or occupation.

Sec. 13. **NRS 231.220 is hereby amended to read as follows:**

231.220 The Director ~~[of the Commission on Tourism]~~ shall direct and supervise all ~~[its]~~ administrative and technical activities ~~[,]~~ ***of the Department,*** including coordinating its plans for tourism ***,*** ~~[and]~~ publications ~~[, scheduling its programs,]~~ ***and cultural affairs,*** analyzing the effectiveness of those programs and associated expenditures, and cooperating with other governmental agencies which have programs related to travel ***,*** ~~[and]~~ tourism ~~[.]~~ ***and cultural affairs.*** In addition to other powers and duties, the Director:

1. Shall attend all ***appropriate*** meetings of the ~~[Commission]~~ ***Department*** and ***appoint a staff member to*** act as ~~[its]~~ Secretary, keeping minutes and audio recordings or transcripts of ~~[its]~~ ***all appropriate*** proceedings.

2. Shall report regularly to the ~~[Commission]~~ ***commissions, divisions and council of the Department*** concerning the administration of ~~[its]~~ ***the*** policies and programs ~~[.~~

~~3. Shall serve as the Director of the Division of Tourism.~~

~~4. Shall appoint the Administrator of the Division of Publications.~~

~~5.]~~ ***of the Department.***

3. May perform any other lawful acts which he or she considers necessary to carry out the provisions of NRS 231.160 to 231.360, inclusive ~~[.]~~ ***, and sections 5 to 8.5, inclusive, of this act.***

Sec. 14. **NRS 231.230 is hereby amended to read as follows:**

231.230 1. The ~~[~~Commission on Tourism~~]~~ ***Department*** through ~~[~~its~~]~~ ***the*** Director may:

(a) Employ such professional, technical, clerical and operational employees as the operation of the ~~[~~Commission~~]~~ ***Department*** may require; and

(b) Employ such experts, researchers and consultants and enter into such contracts with any public or private entities as may be necessary to carry out the provisions of NRS 231.160 to 231.360, inclusive ~~[.]~~ ***and sections 5 to 8.5, inclusive, of this act.***

2. The Director ~~[~~and all other nonclerical employees of the Commission are~~]~~ ***is*** in the unclassified service of the State.

3. ~~[~~The~~]~~ ***Except as otherwise provided in subsection 4, the*** clerical employees of the ~~[~~Commission~~]~~ ***Department*** are in the classified service of the State.

4. The Director may appoint to the Department employees in either the classified or unclassified service of the State, in accordance with the historical manner of categorization, unless state or federal law or regulation requires otherwise.

Sec. 15. **NRS 231.240 is hereby amended to read as follows:**

231.240 1. The Director ~~[~~of the Commission on Tourism~~]~~ may charge reasonable fees for materials prepared for distribution.

2. All such fees must be deposited with the State Treasurer for credit to the ~~[~~Commission.~~]~~ ***Department.*** The fees must first be expended exclusively for materials and labor incident to preparing and printing those materials for distribution. Any remaining fees may be expended, in addition to any other money appropriated, for the support of the ~~[~~Commission.~~]~~ ***Department.***

Sec. 16. **NRS 231.250 is hereby amended to read as follows:**

231.250 The Fund for the Promotion of Tourism is hereby created as a special revenue Fund. The money in the Fund is hereby appropriated for the support of the ~~[~~Commission on Tourism.~~]~~ ***Department***.

Sec. 17. **NRS 231.260 is hereby amended to read as follows:**

231.260 The ~~[~~Commission on Tourism,~~]~~ ***Department,*** through ~~[~~its~~]~~ ***the*** Division of Tourism, shall:

1. Promote this State so as to increase the number of domestic and international tourists.

2. Promote special events ***and exhibitions*** which are designed to increase tourism.

3. Develop a State Plan to Promote Travel and Tourism in Nevada.

4. Develop a comprehensive program of marketing and advertising, for both domestic and international markets, which publicizes travel and tourism in Nevada in order to attract more visitors to this State or lengthen their stay.

5. Provide and administer grants of money or matching grants to political subdivisions of the State, to fair and recreation boards, and to local or regional organizations which promote travel and tourism, to assist them in:

(a) Developing local programs for marketing and advertising which are consistent with the State Plan.

(b) Promoting specific events and attractions in their communities.

(c) Evaluating the effectiveness of the local programs and events.

➥ Each recipient must provide an amount of money, at least equal to the grant, for the same purpose, except, in a county whose population is less than ~~[~~50,000,~~]~~ ***100,000,*** the ~~[~~Commission~~]~~ ***Division*** may, if convinced that the recipient is financially unable to do so, provide a grant with less than equal matching money provided by the recipient.

6. Coordinate and assist the programs of travel and tourism of counties, cities, local and regional organizations for travel and tourism, fair and recreation boards and transportation authorities in the State. Local governmental agencies which promote travel and tourism shall coordinate their promotional programs with those of the ~~[~~Commission.~~]~~ ***Division.***

7. Encourage cooperation between public agencies and private persons who have an interest in promoting travel and tourism in Nevada.

8. Compile or obtain by contract, keep current and disseminate statistics and other marketing information on travel and tourism in Nevada.

9. Prepare and publish ~~[~~, with the assistance of the Division of Publications,~~]~~ brochures, travel guides, directories and other materials which promote travel and tourism in Nevada.

10. Publish or cause to be published a magazine to be known as the Nevada Magazine. The Nevada Magazine must contain materials which educate the general public about this State and thereby foster awareness and appreciation of Nevada's heritage, culture, historical monuments, natural wonders and natural resources.

Sec. 18. **NRS 231.270 is hereby amended to read as follows:**

231.270 In addition to its other duties, the ~~[~~Commission on Tourism through its~~]~~ Division of Tourism may:

1. Form a statewide council or regional councils on tourism, whose members include representatives from businesses, trade associations and governmental agencies, to provide for exchange of information and coordination of programs on travel and tourism.

2. Produce or cooperate in the production of promotional films which are suitable for broadcasting on television and presenting to organizations involved in travel or tourism.

3. Establish an office or offices which, by brochure, telephone, press release, videotape and other means, disseminate information on cultural, sporting, recreational and other special events, activities and facilities in the different parts of the State which will attract tourists from ***inside or*** outside the State.

Sec. 19. **NRS 231.300 is hereby amended to read as follows:**

231.300 In performing ~~[their]~~ ***his or her*** duties, the Director ~~[of the Commission on Tourism and the Administrator of the Division of Publications]~~ shall not interfere with the functions of any other state agencies, but those agencies shall, from time to time, on reasonable request, furnish the Director ~~[and Administrator]~~ with data and other information from their records bearing on the objectives of the ~~[Commission and its divisions.]~~ ***Department.*** The Director ~~[and Administrator]~~ shall avail ~~[themselves]~~ ***himself or herself*** of records and assistance of such other state agencies as might make a contribution to the work of the ~~[Commission.]~~ ***Department.***

Sec. 20. **NRS 231.320 is hereby amended to read as follows:**

231.320 ~~["Committee"]~~ ***"Commission"*** means the ~~[Committee for the Development of Projects Relating to]~~ ***Commission on*** Tourism created by NRS ~~[231.350.]~~ ***231.170.***

Sec. 21. **NRS 231.340 is hereby amended to read as follows:**

231.340 "Grant Program" means the Grant Program administered by the ~~[Committee for the Development of Projects Relating to Tourism.]~~ ***Commission.***

Sec. 22. **NRS 231.360 is hereby amended to read as follows:**

231.360 1. The ~~[Committee]~~ ***Commission*** may provide grants of money to counties, cities, and local and regional organizations in this State for the development of projects relating to tourism to the extent that:

(a) Money in the Fund for the Promotion of Tourism created by NRS 231.250 is made available for that purpose. ~~[Not more than $200,000]~~ ***The amount*** of revenue from taxes on the gross receipts from the rental of transient lodging ~~[may be]~~ made available for that purpose in any biennium ~~[.]~~ ***must be determined through the budget process and approved by the Legislature.***

(b) Gifts, grants or other money is made available for that purpose.

2. Except as otherwise provided in this subsection, the State Controller shall, upon the request of the ~~[Committee,]~~ ***Commission,*** transfer to the State General Fund all money made available for the use of the ~~[Committee]~~ ***Commission*** pursuant to subsection 1. All such money must be accounted for separately in the State General Fund. The State Controller shall not transfer any revenue from taxes on the gross receipts from the rental of transient lodging from the Fund for the Promotion of Tourism to the State General Fund unless the transfer is approved by the Interim Finance Committee.

3. The ~~[Committee]~~ ***Commission*** shall administer the account created pursuant to subsection 2 and may make grants only from that account. Any interest earned on the money in the account must be credited to the account quarterly. The money in the account does not revert to the State General Fund at the end of any fiscal year and must be carried forward to the next fiscal year.

4. The ~~[Committee]~~ ***Commission*** shall:

(a) Develop and administer the Grant Program for the Development of Projects Relating to Tourism;

(b) Establish guidelines for the submission and review of applications to receive money from the Grant Program;

(c) Establish the criteria for eligibility to receive money from the Grant Program; and

(d) Consider and approve or disapprove applications for money from the Grant Program.

5. Except as otherwise provided in subsection 6, as a condition of eligibility for a grant from the ~~[Committee]~~ ***Commission*** pursuant to this section, an applicant must provide an amount of money, at least equal to the amount of the grant, for the same purpose.

6. If an applicant for a grant is from a county whose population is less than 100,000 and the ~~[Committee]~~ ***Commission*** determines that the applicant is financially unable to provide the matching money otherwise required by subsection 5, the ~~[Committee]~~ ***Commission*** may provide a grant with less than equal matching money provided by the applicant.

Sec. 23. **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) ***The Office of Historic Preservation.***

(h) 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, the Nevada Natural Heritage Program and the Board to Review Claims are within the Department.

~~[Sec. 3.]~~ ***Sec. 24.*** 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]~~ ***State Public Works*** Division.

(e) Purchasing Division.

(f) Administrative Services Division.

(g) Division of Internal Audits.

(h) Division of Human Resource Management.

(i) Division of Enterprise Information Technology Services.

(j) Division of State Library and Archives.

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. 4.]~~ ***Sec. 25.*** NRS 232.215 is hereby amended to read as follows:

232.215 The Director:

1. Shall appoint ~~[a Chief]~~ ***an Administrator*** of the:

(a) Risk Management Division;

(b) ~~[Buildings and Grounds]~~ ***State Public Works*** Division;

(c) Purchasing Division;

(d) Administrative Services Division;

(e) Division of Internal Audits; ~~[and]~~

(f) ***Division of Human Resource Management;***

(g) Division of Enterprise Information Technology Services;

(h) Division of State Library and Archives; and

(i) 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 ***233F, 242, 284,*** 331, 333 ***,*** ~~[and]~~ 336 ***, 338, 341 and 378*** 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. 5.]~~ ***Sec. 26.*** NRS 232.2165 is hereby amended to read as follows:

232.2165 ~~[1.]~~ The ~~[Chief]~~ ***Administrator*** of:

~~[(a) The Buildings and Grounds]~~

1. The State Public Works Division;

~~[(b)]~~ ***2.*** The Purchasing Division;

~~[(c)]~~ ***3.*** The Administrative Services Division;

~~[(d)]~~ ***4.*** The Division of Internal Audits; ~~[and~~

~~(e)]~~ ***5. The Division of Human Resource Management;***

6. The Division of Enterprise Information Technology Services;

7. The Division of State Library and Archives; and

8. 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]~~ ***and is in the unclassified*** 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.]~~

~~[Sec. 6.]~~ ***Sec. 27.*** NRS 232.217 is hereby amended to read as follows:

232.217 Unless federal law or regulation otherwise requires, the Chief of the ~~[~~:

~~1.]~~ Budget Division ~~[~~;

~~2.]~~ ~~Buildings and Grounds]~~ ***and the Administrator of the:***

1. State Public Works Division;

~~[3.]~~ ***2.*** Purchasing Division;

~~[4.]~~ ***3.*** Division of Internal Audits; ~~[and]~~

~~[5.]~~ ***4. Division of Human Resource Management;***

~~[6.]~~ ***5. Division of Enterprise Information Technology Services;***

~~[7.]~~ ***6. Division of State Library and Archives; and***

~~[8.]~~ ***7.*** Motor Pool Division, if separately established,

➥ may appoint a Deputy and a Chief Assistant in the unclassified service of the State, who shall not engage in any other gainful employment or occupation except as otherwise provided in NRS 284.143.

~~[Sec. 7.]~~ ***Sec. 28.*** NRS 232.219 is hereby amended to read as follows:

232.219 1. The Department of Administration's Operating Fund for Administrative Services is hereby created as an internal service fund.

2. The operating budget of each of the following entities must include an amount representing that entity's share of the operating costs of the central accounting function of the Department:

(a) State Public Works ~~[Board;]~~ ***Division;***

(b) Budget Division;

(c) ~~[Buildings and Grounds Division;~~

~~(d)]~~ Purchasing Division;

~~[(e)]~~ ***(d)*** Hearings Division;

~~[(f)]~~ ***(e)*** Risk Management Division;

~~[(g)]~~ ***(f)*** Division of Internal Audits; ~~[and~~

~~(h)]~~ ***(g) Division of Human Resource Management;***

(h) Division of Enterprise Information Technology Services;

(i) Division of State Library and Archives; and

(j) If separately established, the Motor Pool Division.

3. All money received for the central accounting services of the Department must be deposited in the State Treasury for credit to the Operating Fund.

4. All expenses of the central accounting function of the Department must be paid from the Fund as other claims against the State are paid.

Sec. 29. **NRS 233C.017 is hereby amended to read as follows:**

233C.017 "Department" means the Department of ***Tourism and*** Cultural Affairs.

Sec. 30. **NRS 233C.091 is hereby amended to read as follows:**

233C.091 1. The Administrator is appointed by the Director with special reference to the Administrator's training, experience, capacity and interest in the arts. ***The Director shall consult with the Board before making the appointment.***

2. The Administrator must have:

(a) A degree in the arts, a field related to the arts or public administration; and

(b) Completed course work and accumulated experience in at least one of the arts with at least 5 years of progressively responsible work experience in the administration of arts and cultural programming, at least 2 years of which must have been in a supervisory capacity.

3. The Administrator may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of the Administrator's duties.

4. The Administrator is responsible to the Director for the general administration of the Division and for the submission of its budgets, subject to administrative supervision by the Director.

5. The Administrator shall direct the work of the Division, administer the Division and perform such other duties as the Director may, from time to time, prescribe.

6. To carry out the provisions of this chapter and within the limit of money available to him or her, the Administrator may enter into contracts and other lawful agreements with:

(a) Natural persons, organizations and institutions for services furthering the mission and goals of the Division and the Board; and

(b) Local, regional and national associations for cooperative endeavors furthering the mission and goals of the programs of the Division.

7. The Administrator may accept gifts, contributions and bequests of unrestricted money from natural persons, foundations, corporations and other organizations and institutions to further the mission and goals of the programs of the Division.

8. ***Except as otherwise provided pursuant to subsection 4 of NRS 231.230, the Administrator is in the unclassified service of the State.***

9. As used in this section, "Director" means the Director of the Department.

~~[Sec. 8.]~~ ***Sec. 31.*** Chapter 233F of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[9]~~ **32** and ~~[10]~~ **33** of this act.

~~[Sec. 9.]~~ ***Sec. 32.*** ~~["Chief Information Officer"]~~ ***"Administrator" means the*** ~~*[Chief Information Officer]*~~ ***Administrator of the Division.***

~~[Sec. 10.]~~ ***Sec. 33. "Division" means the Division of Enterprise Information Technology Services of the Department.***

~~[Sec. 11.]~~ ***Sec. 34.*** NRS 233F.010 is hereby amended to read as follows:

233F.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 233F.020 to 233F.065, inclusive, ***and sections*** ~~*[9]*~~ ***32 and*** ~~*[10]*~~ ***33 of this act*** have the meanings ascribed to them in those sections.

~~[Sec. 12.]~~ ***Sec. 35.*** NRS 233F.045 is hereby amended to read as follows:

233F.045 "Communications Unit" means the Communications Unit of the Communication and Computing ~~[Division]~~ ***Unit*** of the ~~[Department.]~~ ***Division.***

~~[Sec. 13.]~~ ***Sec. 36.*** NRS 233F.055 is hereby amended to read as follows:

233F.055 "Department" means the Department of ~~[Information Technology.]~~ ***Administration.***

~~[Sec. 14.]~~ ***Sec. 37.*** NRS 233F.065 is hereby amended to read as follows:

233F.065 "Telecommunications Unit" means the Telecommunications Unit of the Communication and Computing ~~[Division]~~ ***Unit*** of the ~~[Department.]~~ ***Division.***

~~[Sec. 15.]~~ ***Sec. 38.*** NRS 233F.080 is hereby amended to read as follows:

233F.080 The Legislature finds and declares that a state communications system is vital to the security and welfare of the State during times of emergency and in the conduct of its regular business, and that economies may be realized by joint use of the system by all state agencies. It is the purpose of the Legislature that a state communications system be developed whereby the greatest efficiency in the joint use of existing communications systems is achieved and that all communication functions and activities of state agencies be coordinated. It is not the intent of the Legislature to remove from the ~~[Department of Information Technology]~~ ***Division*** control over the state telecommunications system intended for use by state agencies and the general public.

~~[Sec. 16.]~~ ***Sec. 39.*** NRS 233F.110 is hereby amended to read as follows:

233F.110 1. The ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** may, upon receiving a request for a microwave channel or channels from an agency, approve or disapprove that request. If the request is approved, the ~~[Department]~~ ***Division*** shall assign a channel or channels to the agency at a cost which reflects the actual share of costs incurred for services provided to the agency, in accordance with the comprehensive system of equitable billing and charges developed by the coordinator of communications.

2. Except as otherwise provided in subsection 3, a microwave channel assigned by the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** to an

agency for its use must not be reassigned without the concurrence of the agency.

3. The ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** may revoke the assignment of a microwave channel if an agency fails to pay for its use and may reassign that channel to another agency.

4. Equipment for microwave channels which is purchased by a using agency becomes the property of the ~~[Department]~~ ***Division*** if the agency fails to use or pay for those channels. The equipment must be used by the ~~[Department]~~ ***Division*** to replace old or obsolete equipment in the state communications system.

5. A state agency shall not purchase equipment for microwave stations without prior approval from the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** unless:

(a) The existing services do not meet the needs of the agency; or

(b) The equipment will not be used to duplicate services which are provided by the state communications system or a private company.

6. The ~~[Department]~~ ***Division*** shall reimburse an agency for buildings, facilities or equipment which is consolidated into the state communications system.

~~[Sec. 17.]~~ ***Sec. 40.*** NRS 233F.115 is hereby amended to read as follows:

233F.115 The ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** shall designate at least one microwave channel of the state communications system for use by the fire services.

~~[Sec. 18.]~~ ***Sec. 41.*** 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, ***paragraph (f) of*** subsection ~~[6]~~ ***1*** 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. 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]~~ ***Division*** 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. 19.]~~ ***Sec. 42.*** NRS 235.012 is hereby amended to read as follows:

235.012 1. The Director, after consulting with the Director of the ~~[Commission on]~~ ***Department of*** Tourism ~~[,]~~ ***and Cultural Affairs,*** **the Administrator of the Division of Museums and History of the Department of *Tourism and* Cultural Affairs** and the Administrator of the Division of Minerals of the Commission on Mineral Resources, may contract with a mint to produce medallions made of gold, silver, platinum or nonprecious metals and bars made of gold, silver or platinum.

2. The decision of the Director to award a contract to a particular mint must be based on the ability of the mint to:

(a) Provide a product of the highest quality;

(b) Advertise and market the product properly, including the promotion of museums and tourism in this State; and

(c) Comply with the requirements of the contract.

3. The Director shall award the contract to the lowest responsible bidder, except that if in his or her judgment no satisfactory bid has been received, the Director may reject all bids.

4. All bids for the contract must be solicited in the manner prescribed in NRS 333.310 and comply with the provisions of NRS 333.330.

Sec. 43. **NRS 235.014 is hereby amended to read as follows:**

235.014 1. The ore used to produce a medallion or bar must be mined in Nevada, if the ore is available. If it is not available, ore newly mined in the United States may be used. Each medallion or bar made of gold, silver or platinum must be 0.999 fine. Additional series of medallions made of gold, silver or platinum at degrees of fineness of 0.900 or greater may be approved by the Director with the concurrence of the Interim Finance Committee. The degree of fineness of the materials used must be clearly indicated on each medallion.

2. Medallions may be minted in weights of 1 ounce, 0.5 ounce, 0.25 ounce and 0.1 ounce.

3. Bars may be minted in weights of 1 ounce, 5 ounces, 10 ounces and 100 ounces.

4. Each medallion must bear on its obverse The Great Seal of the State of Nevada and on its reverse a design selected by the Director, in consultation with the Director of the ~~[Commission on]~~ ***Department of*** Tourism ~~[,]~~ ***and***

Cultural Affairs, the Administrator of the Division of Museums and History of the Department of ***Tourism and*** Cultural Affairs and the Administrator of the Division of Minerals of the Commission on Mineral Resources.

~~[Sec. 20.]~~ ***Sec. 44.*** NRS 239.005 is hereby amended to read as follows:

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

1. "Actual cost" means the direct cost related to the reproduction of a public record. The term does not include a cost that a governmental entity incurs regardless of whether or not a person requests a copy of a particular public record.

2. "Committee" means the Committee to Approve Schedules for the Retention and Disposition of Official State Records.

3. "Division" means the Division of State Library and Archives of the Department of ~~[Cultural Affairs.]~~ ***Administration.***

4. "Governmental entity" means:

(a) An elected or appointed officer of this State or of a political subdivision of this State;

(b) An institution, board, commission, bureau, council, department, division, authority or other unit of government of this State or of a political subdivision of this State;

(c) A university foundation, as defined in NRS 396.405; or

(d) An educational foundation, as defined in NRS 388.750, to the extent that the foundation is dedicated to the assistance of public schools.

~~[Sec. 21.]~~ ***Sec. 45.*** NRS 239.073 is hereby amended to read as follows:

239.073 1. The Committee to Approve Schedules for the Retention and Disposition of Official State Records, consisting of six members, is hereby created.

2. The Committee consists of:

(a) The Secretary of State;

(b) The Attorney General;

(c) The Director of the Department of Administration;

(d) The State Library and Archives Administrator;

(e) The ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator of the Division of Enterprise Information Technology Services*** of the Department of ~~[Information Technology;]~~ ***Administration;*** and

(f) One member who is a representative of the general public appointed by the Governor.

➥ All members of the Committee, except the representative of the general public, are ex officio members of the Committee.

3. The Secretary of State or a person designated by the Secretary of State shall serve as Chair of the Committee. The State Library and Archives Administrator shall serve as Secretary of the Committee and prepare and maintain the records of the Committee.

4. The Committee shall meet at least quarterly and may meet upon the call of the Chair.

5. An ex officio member of the Committee may designate a person to represent the ex officio member at any meeting of the Committee. The person designated may exercise all the duties, rights and privileges of the member that the person represents.

6. The Committee may adopt rules and regulations for its management.

~~[Sec. 22.]~~ ***Sec. 46.*** Chapter 242 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[23]~~ **47** and ~~[24]~~ **48** of this act.

~~[Sec. 23.]~~ ***Sec. 47.*** ~~*["Chief Information Officer"]*~~ ***"Administrator" means the*** ~~*[Chief Information Officer]*~~ ***Administrator of the Division.***

~~[Sec. 24.]~~ ***Sec. 48. "Division" means the Division of Enterprise Information Technology Services of the Department.***

~~[Sec. 25.]~~ ***Sec. 49.*** NRS 242.011 is hereby amended to read as follows:

242.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 242.015 to 242.068, inclusive, ***and sections*** ~~*[23]*~~ ***47 and*** ~~*[24]*~~ ***48 of this act*** have the meanings ascribed to them in those sections.

~~[Sec. 26.]~~ ***Sec. 50.*** NRS 242.031 is hereby amended to read as follows:

242.031 "Department" means the Department of ~~[Information Technology.]~~ ***Administration.***

~~[Sec. 27.]~~ ***Sec. 51.*** NRS 242.071 is hereby amended to read as follows:

242.071 1. The Legislature hereby determines and declares that the creation of the ***Division of Enterprise Information Technology Services of the*** Department of ~~[Information Technology]~~ ***Administration*** is necessary for the coordinated, orderly and economical processing of information in State Government, to ensure economical use of information systems and to prevent the unnecessary proliferation of equipment and personnel among the various state agencies.

2. The purposes of the ~~[Department]~~ ***Division*** are:

(a) To perform information services for state agencies.

(b) To provide technical advice but not administrative control of the information systems within the state agencies, county agencies and governing bodies and agencies of incorporated cities and towns.

~~[Sec. 28.]~~ ***Sec. 52.*** NRS 242.080 is hereby amended to read as follows:

242.080 1. The ***Division of Enterprise Information Technology Services of the*** Department ~~[of Information Technology]~~ is hereby created.

2. The ~~[Department]~~ ***Division*** consists of the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** and the:

(a) ~~[Programming Division.]~~ ***Enterprise Application Services Unit.***

(b) Communication and Computing ~~[Division.]~~ ***Unit.***

(c) Office of Information Security.

3. A Communications Unit and a Telecommunications Unit are hereby created within the Communication and Computing ~~[~~Division~~]~~ ***Unit*** of the ~~[~~Department.~~]~~ ***Division.***

~~[~~Sec. 29.~~]~~ ***Sec. 53.*** NRS 242.090 is hereby amended to read as follows:

242.090 1. The ~~[~~Governor~~]~~ ***Director of the Department*** shall appoint the ~~[~~Director~~]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** in the unclassified service of the State. ~~[~~In selecting the~~]~~ ~~[~~Director,~~]~~ ~~*[Chief Information Officer, the]*~~ ~~[~~Governor~~]~~ ~~*[Director of the Department*~~ shall consider recommendations of the *Division of Human Resource Management of the* Department~~]~~ ~~[~~of Personnel~~]~~ ~~[~~relating to minimum qualifications.~~]~~

2. The ~~[~~Director:~~]~~ ~~*[Chief Information Officer:]*~~ ***Administrator:***

(a) Serves at the pleasure of ***,*** ~~[~~the Governor~~]~~ and is responsible to ***,*** the ~~[~~Governor.~~]~~ ***Director of the Department.***

(b) Shall not engage in any other gainful employment or occupation.

~~[~~Sec. 30.~~]~~ ***Sec. 54.*** NRS 242.101 is hereby amended to read as follows:

242.101 1. The ~~[~~Director~~]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** shall:

(a) Appoint the ~~[~~chiefs~~]~~ ***heads*** of the ~~[~~divisions~~]~~ ***units and offices of the Division*** in the unclassified service of the State;

(b) Administer the provisions of this chapter and other provisions of law relating to the duties of the ~~[~~Department;~~]~~ ***Division;*** and

(c) Carry out other duties and exercise other powers specified by law.

2. The ~~[~~Director~~]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** may form committees to establish standards and determine criteria for evaluation of policies relating to informational services.

~~[~~Sec. 31.~~]~~ ***Sec. 55.*** NRS 242.105 is hereby amended to read as follows:

242.105 1. Except as otherwise provided in subsection 3, records and portions of records that are assembled, maintained, overseen or prepared by the ~~[~~Department~~]~~ ***Division*** to mitigate, prevent or respond to acts of terrorism, the public disclosure of which would, in the determination of the ~~[~~Director,~~]~~ ~~*[Chief Information Officer,]*~~ ***Administrator,*** create a substantial likelihood of threatening the safety of the general public are confidential and not subject to inspection by the general public to the extent that such records and portions of records consist of or include:

(a) Information regarding the infrastructure and security of information systems, including, without limitation:

(1) Access codes, passwords and programs used to ensure the security of an information system;

(2) Access codes used to ensure the security of software applications;

(3) Procedures and processes used to ensure the security of an information system; and

(4) Plans used to reestablish security and service with respect to an information system after security has been breached or service has been interrupted.

(b) Assessments and plans that relate specifically and uniquely to the vulnerability of an information system or to the measures which will be taken to respond to such vulnerability, including, without limitation, any compiled underlying data necessary to prepare such assessments and plans.

(c) The results of tests of the security of an information system, insofar as those results reveal specific vulnerabilities relative to the information system.

2. The ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** shall maintain or cause to be maintained a list of each record or portion of a record that the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** has determined to be confidential pursuant to subsection 1. The list described in this subsection must be prepared and maintained so as to recognize the existence of each such record or portion of a record without revealing the contents thereof.

3. At least once each biennium, the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** shall review the list described in subsection 2 and shall, with respect to each record or portion of a record that the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** has determined to be confidential pursuant to subsection 1:

(a) Determine that the record or portion of a record remains confidential in accordance with the criteria set forth in subsection 1;

(b) Determine that the record or portion of a record is no longer confidential in accordance with the criteria set forth in subsection 1; or

(c) If the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** determines that the record or portion of a record is obsolete, cause the record or portion of a record to be disposed of in the manner described in NRS 239.073 to 239.125, inclusive.

4. On or before February 15 of each year, the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** shall:

(a) Prepare a report setting forth a detailed description of each record or portion of a record determined to be confidential pursuant to this section, if any, accompanied by an explanation of why each such record or portion of a record was determined to be confidential; and

(b) Submit a copy of the report to the Director of the Legislative Counsel Bureau for transmittal to:

(1) If the Legislature is in session, the standing committees of the Legislature which have jurisdiction of the subject matter; or

(2) If the Legislature is not in session, the Legislative Commission.

5. As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 239C.030.

Sec. 56. **NRS 244A.689 is hereby amended to read as follows:**

244A.689 "Project" means:

1. Any land, building or other improvement and all real and personal properties necessary in connection therewith, whether or not in existence, suitable for:

(a) A manufacturing, industrial or warehousing enterprise;

(b) An organization for research and development;

(c) A health and care facility;

(d) A supplemental facility for a health and care facility;

(e) The purposes of a corporation for public benefit; or

(f) Affordable housing.

2. The refinancing of any land, building or other improvement and any real and personal property necessary for:

(a) A health and care facility;

(b) A supplemental facility for a health and care facility;

(c) The purposes of a corporation for public benefit; or

(d) Affordable housing.

3. Any land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination thereof or any interest therein, used by any natural person, partnership, firm, company, corporation, including a public utility, association, trust, estate, political subdivision, state agency or any other legal entity, or its legal representative, agent or assigns:

(a) For the reduction, abatement or prevention of pollution or for the removal or treatment of any substance in a processed material which otherwise would cause pollution when such material is used.

(b) In connection with the furnishing of water if available on reasonable demand to members of the general public.

(c) In connection with the furnishing of energy or gas.

4. Any real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire.

5. Any undertaking by a public utility, in addition to that allowed by subsections 2 and 3, which is solely for the purpose of making capital improvements to property, whether or not in existence, of a public utility.

6. In addition to the kinds of property described in subsections 2 and 3, if the project is for the generation and transmission of electricity, any other property necessary or useful for that purpose, including, without limitation, any leases and any rights to take water or fuel.

7. The preservation of any historic structure or its restoration for its original or another use, if the plan has been approved by the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

Sec. 57. **NRS 277.058 is hereby amended to read as follows:**

277.058 1. A public entity, in consultation with any Indian tribe that has local aboriginal ties to the geographical area in which a unique archeological, paleontological or historical site is located and in cooperation

with the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs,]~~ ***Conservation and Natural Resources,*** may enter into a cooperative agreement with the owner of any property that contains a unique archeological, paleontological or historical site in this state or with any other person, agency of the Federal Government or other public entity for the preservation, protection, restoration and enhancement of unique archeological, paleontological or historical sites in this state, including, without limitation, cooperative agreements to:

(a) Monitor compliance with and enforce any federal or state statutes or regulations for the protection of such sites.

(b) Ensure the sensitive treatment of such sites in a manner that provides for their long-term preservation and the consideration of the values of relevant cultures.

(c) Apply for and accept grants and donations for the preservation, protection, restoration and enhancement of such sites.

(d) Create and enforce:

(1) Legal restrictions on the use of real property; and

(2) Easements for conservation, as defined in NRS 111.410,

➥ for the protection of such sites.

2. As used in this section, "public entity" means any:

(a) Agency of this state, including the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs;]~~ ***Conservation and Natural Resources;*** and

(b) County, city or town in this state.

~~[Sec. 32.]~~ ***Sec. 58.*** NRS 281.641 is hereby amended to read as follows:

281.641 1. If any reprisal or retaliatory action is taken against a state officer or employee who discloses information concerning improper governmental action within 2 years after the information is disclosed, the state officer or employee may file a written appeal with a hearing officer of the ~~[Department of]~~ Personnel ***Commission*** for a determination of whether the action taken was a reprisal or retaliatory action. The written appeal must be accompanied by a statement that sets forth with particularity:

(a) The facts and circumstances under which the disclosure of improper governmental action was made; and

(b) The reprisal or retaliatory action that is alleged to have been taken against the state officer or employee.

➥ The hearing must be conducted in accordance with the procedures set forth in NRS 284.390 to 284.405, inclusive, and the procedures adopted by the Personnel Commission pursuant to subsection 4.

2. If the hearing officer determines that the action taken was a reprisal or retaliatory action, the hearing officer may issue an order directing the proper person to desist and refrain from engaging in such action. The hearing officer shall file a copy of the decision with the Governor or any other elected state officer who is responsible for the actions of that person.

3. The hearing officer may not rule against the state officer or employee based on the person or persons to whom the improper governmental action was disclosed.

4. The Personnel Commission may adopt rules of procedure for conducting a hearing pursuant to this section that are not inconsistent with the procedures set forth in NRS 284.390 to 284.405, inclusive.

5. As used in this section, "Personnel Commission" means the Personnel Commission created by NRS 284.030.

~~[Sec. 33.]~~ ***Sec. 59.*** NRS 284.015 is hereby amended to read as follows:

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

1. ***"Administrator" means the Administrator of the Division.***

2. "Commission" means the Personnel Commission.

~~[2. "Department" means the Department of Personnel.~~

~~3. "Director" means the Director of the Department.~~

~~4.]~~ ***3.*** "Disability," includes, but is not limited to, physical disability, mental retardation and mental or emotional disorder.

4. "Division" means the Division of Human Resource Management of the Department of Administration.

5. "Essential functions" has the meaning ascribed to it in 29 C.F.R. § 1630.2.

6. "Public service" means positions providing service for any office, department, board, commission, bureau, agency or institution in the Executive Department of the State Government operating by authority of the Constitution or law, and supported in whole or in part by any public money, whether the money is received from the Government of the United States or any branch or agency thereof, or from private or any other sources.

~~[Sec. 34.]~~ ***Sec. 60.*** NRS 284.025 is hereby amended to read as follows:

284.025 1. The ~~[Department of Personnel]~~ ***Division of Human Resource Management of the Department of Administration*** is hereby created.

2. The ~~[Department]~~ ***Division*** shall administer the provisions of this chapter.

~~[Sec. 35.]~~ ***Sec. 61.*** NRS 284.030 is hereby amended to read as follows:

284.030 1. There is hereby created in the ~~[Department]~~ ***Division*** a personnel commission composed of five members appointed by the Governor.

2. The Governor shall appoint:

(a) Three members who are representatives of the general public and have a demonstrated interest in or knowledge of the principles of public personnel administration.

(b) One member who is a representative of labor and has a background in personnel administration.

(c) One member who is a representative of employers or managers and has a background in personnel administration.

~~[Sec. 36.]~~ ***Sec. 62.*** NRS 284.172 is hereby amended to read as follows:

284.172 1. The ~~[Director]~~ ***Administrator*** shall prepare, maintain and revise as necessary a list of all positions in the classified service that consist primarily of performing data processing.

2. The request of an appointing authority that is required to use the equipment or services of the ***Division of Enterprise Information Technology Services of the*** Department of ~~[Information Technology]~~ ***Administration*** for a new position or the reclassification of an existing position to a position included on the list required by subsection 1 must be submitted to the ~~[Director]~~ ~~*[Chief Information Officer]*~~ ***Administrator*** of the ~~[Department of Information Technology]~~ ***Division of Enterprise Information Technology Services*** for approval before submission to the ~~[Department of Personnel.]~~ ***Division of Human Resource Management.***

~~[Sec. 37.]~~ ***Sec. 63.*** NRS 284.320 is hereby amended to read as follows:

284.320 1. In case of a vacancy in a position where peculiar and exceptional qualifications of a scientific, professional or expert character are required, and upon satisfactory evidence that for specific reasons competition in that case is impracticable, and that the position can best be filled by the selection of some designated person of high and recognized attainments in the required qualities, the ~~[director]~~ ***Administrator*** may suspend the requirements of competition.

2. The ~~[Director]~~ ***Administrator*** may suspend the requirements of competitive examination for positions requiring highly professional qualifications if past experience or current research indicates a difficulty in recruitment or if the qualifications include a license or certification.

3. Upon specific written justification by the appointing authority, the ~~[Director]~~ ***Administrator*** may suspend the requirement of competitive examination for a position where extreme difficulty in recruitment has been experienced and extensive efforts at recruitment have failed to produce five persons in the state service who are qualified applicants for promotion to the position.

4. Except in the circumstances described in subsection 2, no suspension may be general in its application to any position, and each case of suspension and the justifying circumstances must be reported in the biennial report of the ~~[department]~~ ***Division*** with the reasons for the suspension.

~~[Sec. 38.]~~ ***Sec. 64.*** NRS 284.390 is hereby amended to read as follows:

284.390 1. Within 10 working days after the effective date of an employee's dismissal, demotion or suspension pursuant to NRS 284.385, the employee who has been dismissed, demoted or suspended may request in writing a hearing before the hearing officer of the ~~[Department]~~ ***Commission***

to determine the reasonableness of the action. The request may be made by mail and shall be deemed timely if it is postmarked within 10 working days after the effective date of the employee's dismissal, demotion or suspension.

2. The hearing officer shall grant the employee a hearing within 20 working days after receipt of the employee's written request unless the time limitation is waived, in writing, by the employee or there is a conflict with the hearing calendar of the hearing officer, in which case the hearing must be scheduled for the earliest possible date after the expiration of the 20 days.

3. The employee may represent himself or herself at the hearing or be represented by an attorney or other person of the employee's own choosing.

4. Technical rules of evidence do not apply at the hearing.

5. After the hearing and consideration of the evidence, the hearing officer shall render a decision in writing, setting forth the reasons therefor.

6. If the hearing officer determines that the dismissal, demotion or suspension was without just cause as provided in NRS 284.385, the action must be set aside and the employee must be reinstated, with full pay for the period of dismissal, demotion or suspension.

7. The decision of the hearing officer is binding on the parties.

8. Any petition for judicial review of the decision of the hearing officer must be filed in accordance with the provisions of chapter 233B of NRS.

Sec. 65. **NRS 321.5967 is hereby amended to read as follows:**

321.5967 1. There is hereby created a Board of Review composed of:

(a) The Director of the State Department of Conservation and Natural Resources;

(b) The Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources;

(c) The Administrator of the Division of Minerals of the Commission on Mineral Resources;

(d) The Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources;

(e) The State Engineer;

(f) The State Forester Firewarden;

(g) The Chair of the State Environmental Commission;

(h) The Director of the State Department of Agriculture;

(i) The Chair of the Board of Wildlife Commissioners; and

(j) The Administrator of the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

2. The Chair of the State Environmental Commission serves as Chair of the Board.

3. The Board shall meet at such times and places as are specified by a call of the Chair. Six members of the Board constitute a quorum. The affirmative vote of a majority of the Board members present is sufficient for any action of the Board.

4. Except as otherwise provided in this subsection, the members of the Board serve without compensation. The Chair of the State Environmental Commission and the Chair of the Board of Wildlife Commissioners are entitled to receive a salary of not more than $80, as fixed by the Board, for each day's attendance at a meeting of the Board.

5. While engaged in the business of the Board, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. The Board:

(a) Shall review and approve or disapprove all regulations proposed by the State Land Registrar pursuant to NRS 321.597.

(b) May review any decision of the State Land Registrar made pursuant to NRS 321.596 to 321.599, inclusive, if an appeal is taken pursuant to NRS 321.5987, and affirm, modify or reverse the decision.

(c) Shall review any plan or statement of policy concerning the use of lands in Nevada under federal management which is submitted by the State Land Use Planning Agency.

~~[Sec. 39.]~~ ***Sec. 66.*** NRS 331.010 is hereby amended to read as follows:

331.010 As used in NRS 331.010 to ~~[331.145,]~~ ***331.180,*** inclusive, unless the context otherwise requires:

1. ***"Administrator" means the Administrator of the Division.***

2. "Buildings and Grounds ~~[Division"]~~ ***Section"*** means the Buildings and Grounds ***Section of the*** Division . ~~[of the Department of Administration.~~

~~2. "Chief" means the Chief of the Buildings and Grounds Division.]~~

3. ***"Department" means the Department of Administration.***

4. "Director" means the Director of the Department . ~~[of Administration.]~~

5. "Division" means the State Public Works Division of the Department.

~~[Sec. 40.]~~ ***Sec. 67.*** NRS 331.020 is hereby amended to read as follows:

331.020 The ~~[Buildings and Grounds]~~ Division shall administer the provisions of NRS 331.010 to ~~[331.145,]~~ ***331.180,*** inclusive, subject to administrative supervision by the Director.

~~[Sec. 41.]~~ ***Sec. 68.*** NRS 331.060 is hereby amended to read as follows:

331.060 1. The ~~[Chief]~~ ***Administrator*** shall, within the limits of legislative appropriations, employ such clerks, engineers, electricians, painters, mechanics, janitors, gardeners and other persons as may be necessary to carry out the provisions of NRS 331.010 to ~~[331.145,]~~ ***331.180,*** inclusive.

2. The employees shall perform duties as assigned by the ~~[Chief.]~~ ***Administrator.***

3. The ~~[Chief]~~ ***Administrator*** is responsible for the fitness and good conduct of all employees.

~~[Sec. 42.]~~ ***Sec. 69.*** NRS 331.085 is hereby amended to read as follows:

331.085 The ~~[Chief]~~ ***Administrator*** may charge the various state departments, agencies and institutions for the cost of labor and materials for extra services provided to their respective offices by the Buildings and Grounds ~~[Division.]~~ ***Section.*** Extra services for which these charges may be made include, but are not limited to, office remodeling, furniture construction and moving. Money received by the Chief for this purpose must be deposited in the Buildings and Grounds Operating Fund in the State Treasury.

~~[Sec. 43.]~~ ***Sec. 70.*** NRS 331.100 is hereby amended to read as follows:

331.100 The ~~[Chief]~~ ***Administrator*** has the following specific powers and duties:

1. To keep all buildings, rooms, basements, floors, windows, furniture and appurtenances clean, orderly and presentable as befitting public property.

2. To keep all yards and grounds clean and presentable, with proper attention to landscaping and horticulture.

3. Under the supervision of the State Fire Marshal, to make arrangements for the installation and maintenance of water sprinkler systems, fire extinguishers, fire hoses and fire hydrants, and to take other fire prevention and suppression measures, necessary and feasible, that may reduce the fire hazards in all buildings under his or her control.

4. To make arrangements and provision for the maintenance of the State's water system supplying the state-owned buildings at Carson City, with particular emphasis upon the care and maintenance of water reservoirs, in order that a proper and adequate supply of water be available to meet any emergency.

5. To make arrangements for the installation and maintenance of water meters designed to measure accurately the quantity of water obtained from sources not owned by the State.

6. To make arrangements for the installation and maintenance of a lawn sprinkling system on the grounds adjoining the Capitol Building at Carson City, or on any other state-owned grounds where such installation is practical or necessary.

7. To investigate the feasibility, and economies resultant therefrom, if any, of the installation of a central power meter, to measure electrical energy used by the state buildings in the vicinity of and including the Capitol Building at Carson City, assuming the buildings were served with power as one unit.

8. To purchase, use and maintain such supplies and equipment as are necessary for the care, maintenance and preservation of the buildings and grounds under his or her supervision and control.

9. Subject to the provisions of chapter 426 of NRS regarding the operation of vending stands in or on public buildings and properties by persons who are blind, to install or remove vending machines and vending

stands in the buildings under his or her supervision and control, and to have control of and be responsible for their operation.

10. To **cooperate with the Nevada Arts Council** ~~[and]~~ ***of*** **the** ~~[State Public Works Board]~~ ***Department of Tourism and Cultural Affairs*** **to** plan the potential purchase and placement of works of art inside or on the grounds surrounding a state building.

~~[Sec. 44.]~~ ***Sec. 71.*** NRS 331.102 is hereby amended to read as follows:

331.102 1. The ~~[Chief]~~ ***Administrator*** shall:

(a) Maintain accurate records reflecting the costs of administering the provisions of NRS 331.010 to ~~[331.145,]~~ ***331.180,*** inclusive.

(b) Between July 1 and August 1 of each even-numbered year, determine, on the basis of experience during the 2 preceding fiscal years, the estimated cost per square foot of rentable area of carrying out the functions of the Buildings and Grounds ~~[Division]~~ ***Section*** for the 2 succeeding fiscal years, and inform each department, agency and institution operating under the provisions of NRS 331.010 to ~~[331.145,]~~ ***331.180,*** inclusive, of the cost.

2. Each department, agency and institution occupying space in state-owned buildings maintained by the Buildings and Grounds ~~[Division,]~~ ***Section*** shall include in its budget for each of the 2 succeeding fiscal years an amount of money equal to the cost per budgeted square foot of rentable area, as determined by the ~~[Chief,]~~ ***Administrator,*** multiplied by the number of rentable square feet occupied by each department, agency or institution.

3. Except as otherwise provided in subsection 4, on July 1 of each year each department, agency or institution shall pay to the ~~[Chief]~~ ***Administrator*** for deposit in the Buildings and Grounds Operating Fund the amount of money appropriated to or authorized for the department, agency or institution for building space rental costs pursuant to its budget.

4. Any state department, agency or institution may pay building space rental costs required pursuant to subsection 3 on a date or dates other than July 1, if compliance with federal law or regulation so requires.

~~[Sec. 45.]~~ ***Sec. 72.*** NRS 331.110 is hereby amended to read as follows:

331.110 1. ~~[Except as otherwise provided in subsection 2, the Chief]~~ ***The Administrator*** may lease and equip office rooms outside of state buildings for the use of state officers and employees, whenever sufficient space for the officers and employees cannot be provided within state buildings, but no such lease may extend beyond the term of 1 year unless it is reviewed and approved by a majority of the members of the State Board of Examiners. The Attorney General shall approve each lease entered into pursuant to this subsection as to form and compliance with law.

2. ~~[The]~~ ***Except as otherwise provided in this subsection, the*** provisions of subsection 1 **do not** apply to ~~*[all]*~~ state officers and employees of boards ~~*[, including, without limitation, officers and employees of:*~~

~~(a) Boards]~~ that are exempt from the provisions of chapter 353 of NRS pursuant to NRS 353.005 ~~.~~ ~~[.~~

~~(b)]~~ ***The provisions of subsection 1 apply to:***

(a) The Department of Public Safety;

~~[(c)]~~ ***(b) The Department of Motor Vehicles; and***

~~[(d)]~~ ***(c) The State Gaming Control Board.***

3. 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 Administrator, 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 Administrator 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 Administrator determines that it is impracticable for the owner to comply with the program.

4. As used in this section, "program" means the program established pursuant to section ~~[93]~~ ***140 of this act.***

~~[Sec. 46.]~~ ***Sec. 73.*** NRS 331.140 is hereby amended to read as follows:

331.140 1. The ~~[Chief]~~ ***Administrator*** shall take proper care to prevent any unlawful activity on or damage to any state property under the supervision and control of the ~~[Chief,]~~ ***Administrator,*** and to protect the safety of any persons on that property.

2. The Director of the Department of Public Safety shall appoint to the Capitol Police Division of that Department such personnel as may be necessary to assist the ~~[Chief of]~~ ***Administrator and*** the Buildings and Grounds ~~[Division]~~ ***Section*** in the enforcement of subsection 1. The salaries and expenses of the personnel appointed pursuant to this subsection must, within the limits of legislative authorization, be paid out of the Buildings and Grounds Operating Fund.

~~[Sec. 47.]~~ ***Sec. 74.*** NRS 331.160 is hereby amended to read as follows:

331.160 1. The Marlette Lake Water System, composed of the water rights, easements, pipelines, flumes and other fixtures and appurtenances used in connection with the collection, transmission and storage of water in Carson City and Washoe and Storey Counties, Nevada, acquired by the State of Nevada pursuant to law, is hereby created.

2. The purposes of the Marlette Lake Water System are:

(a) To provide adequate supplies of water to the areas served.

(b) To maintain distribution lines, flumes, dams, culverts, bridges and all other appurtenances of the system in a condition calculated to assure dependable supplies of water.

(c) To sell water under equitable and fiscally sound contractual arrangements. Any such contractual arrangements must not include the value of the land comprising the watershed as an element in determining the cost of water sold.

3. The Department of Administration is designated as the state agency to supervise and administer the functions of the Marlette Lake Water System.

4. The Director of the Department of Administration may assign the supervision and administration of the functions of the Marlette Lake Water System to one of the divisions of the Department ***, a city or a county,*** or may establish a separate division to carry out the purposes of this section and NRS 331.170 and 331.180. Subject to the limit of money provided by legislative appropriation or revenues whose expenditure is authorized by law, the chief of that division***, or the city or county, as applicable,*** shall employ necessary staff to carry out the provisions of this section and NRS 331.170 and 331.180.

5. The Director of the Department of Administration shall:

(a) Establish the value of water to be distributed from the Marlette Lake Water System.

(b) Include in the water rate structure provisions for recovery, over a reasonable period, of the major capital costs of improving and modernizing the System.

(c) Assure that the rate structure is equitable for all present and potential customers.

6. The Director of the Department of Administration may request the State Board of Finance to issue general obligation bonds of the State or revenue bonds in an aggregate principal amount not to exceed $25,000,000 to finance the capital costs of improving and modernizing the Marlette Lake Water System. Before any revenue bonds are issued pursuant to this subsection, the State Board of Finance must determine that sufficient revenue will be available in the Marlette Lake Water System Fund to pay the interest and installments of principal as they become due. The provisions of NRS 349.150 to 349.364, inclusive, apply to the issuance of state securities pursuant to this subsection.

7. The Legislature finds and declares that the issuance of state securities and the incurrence of indebtedness pursuant to subsection 6 is necessary for the protection and preservation of the natural resources of this State and for the purpose of obtaining the benefits thereof, and constitutes an exercise of the authority conferred by the second paragraph of Section 3 of Article 9 of the Constitution of the State of Nevada.

~~[Sec. 48.]~~ ***Sec. 75.*** NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS.

(b) A design-build team.

4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker or workers employed by them on public works by the day and not under a contract in writing.

5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. ***"Division" means the State Public Works Division of the Department of Administration.***

9. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

~~[9.]~~ ***10.*** "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

~~[10.]~~ ***11.*** "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

~~[11.]~~ ***12.*** "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

~~[12.]~~ ***13.*** "Offense" means failing to:

(a) Pay the prevailing wage required pursuant to this chapter;

(b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;

(c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or

(d) Comply with subsection 4 or 5 of NRS 338.070.

~~[13.]~~ ***14.*** "Prime contractor" means a contractor who:

(a) Contracts to construct an entire project;

(b) Coordinates all work performed on the entire project;

(c) Uses his or her own workforce to perform all or a part of the public work; and

(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

➥ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

[14.] ***15.*** "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

[15.] ***16.*** "Public work" means any project for the new construction, repair or reconstruction of:

(a) A project financed in whole or in part from public money for:

(1) Public buildings;

(2) Jails and prisons;

(3) Public roads;

(4) Public highways;

(5) Public streets and alleys;

(6) Public utilities;

(7) Publicly owned water mains and sewers;

(8) Public parks and playgrounds;

(9) Public convention facilities which are financed at least in part with public money; and

(10) All other publicly owned works and property.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

[16.] ***17.*** "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

[17.] ***18.*** "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

➥ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

[18.] ***19.*** "Subcontract" means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

➥ for the provision of labor, materials, equipment or supplies for a construction project.

[19.] ***20.*** "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

[20.] ***21.*** "Supplier" means a person who provides materials, equipment or supplies for a construction project.

~~[21.]~~ ***22.*** "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the worker.

~~[22.]~~ ***23.*** "Worker" means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

~~[Sec. 49.]~~ ***Sec. 76.*** NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The ~~[State Public Works Board]~~ ***Division*** shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the ~~[State Public Works Board]~~ ***Division*** to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13845 or 338.13895;

(5) 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;

(6) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

(7) The truthfulness and completeness of the application.

~~[Sec. 50.]~~ ***Sec. 77.*** 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 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]~~ ***Division*** or the local government, the ***State Public Works*** 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. 51.]~~ ***Sec. 78.*** NRS 338.13845 is hereby amended to read as follows:

338.13845 1. If the ~~[State Public Works Board]~~ ***Division*** determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in NRS 338.13844, the business is thereafter permanently prohibited from:

(a) Applying for or receiving the preference described in NRS 338.13844; and

(b) Bidding on a contract for a public work of this State.

2. If the ~~[State Public Works Board]~~ ***Division*** determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in NRS 338.13844, the business may apply to the ~~[Manager]~~ ***Administrator*** to review the decision pursuant to chapter 233B of NRS.

3. As used in this section, ~~["Manager"]~~ ***"Administrator"*** has the meaning ascribed to it in ~~[NRS 341.015.]~~ ***section ~~[55]~~ 82 of this act.***

~~[Sec. 52.]~~ ***Sec. 79.*** NRS 338.13847 is hereby amended to read as follows:

338.13847 The State Public Works Board may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 338.1384 to 338.13847, inclusive. The regulations may include, without limitation, provisions setting forth:

1. The method by which a business may apply to receive the preference described in NRS 338.13844;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for the preference described in NRS 338.13844; and

3. Such other matters as the ~~[State Public Works Board]~~ ***Division*** deems relevant.

➥ In carrying out the provisions of this section, the State Public Works Board ***and the Division*** shall, to the extent practicable, cooperate and coordinate with the Purchasing Division of the Department of Administration so that any regulations adopted pursuant to this section and NRS 333.3369 are reasonably consistent.

~~[Sec. 53.]~~ ***Sec. 80.*** 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; or

(II) The Renewable Energy School Pilot Program created by NRS 701B.350.

(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]~~ ***Director of the Office of*** Energy ~~[Commissioner]~~ and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection ~~[11]~~ ***12*** 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. 54.]~~ ***Sec. 81.*** Chapter 341 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[55]~~ **82** to ~~[58,]~~ **85**, inclusive, of this act.

~~[Sec. 55.]~~ ***Sec. 82. "Administrator" means the Administrator of the Division.***

~~[Sec. 56.]~~ ***Sec. 83. "Department" means the Department of Administration.***

~~[Sec. 57.]~~ ***Sec. 84. "Division" means the State Public Works Division of the Department.***

~~[Sec. 58.]~~ ***Sec. 85. 1. There is hereby created the State Public Works Division of the Department of Administration.***

2. The Division consists of:

(a) The Administrator;

(b) The Buildings and Grounds Section; and

(c) The State Public Works Board.

3. The Division shall, subject to the administrative supervision of the Director of the Department, administer the provisions of this chapter and NRS 331.010 to 331.180, inclusive.

~~[Sec. 59.]~~ ***Sec. 86.*** NRS 341.010 is hereby amended to read as follows:

341.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 341.013 and ~~[~~341.015~~]~~ ***sections ~~[55, 56 and 57]~~ 82, 83 and 84 of this act*** have the meanings ascribed to them in those sections.

~~[~~Sec. 60.~~]~~ ***Sec. 87.*** NRS 341.020 is hereby amended to read as follows:

341.020 1. The State Public Works Board is hereby created.

2. The Board consists of ~~[~~seven~~]~~ ***the Director of the Department and six*** members appointed as follows:

(a) The Governor shall appoint:

(1) One member who has education or experience, or both, regarding the principles of engineering or architecture;

(2) ~~[~~One member who has education or experience, or both, regarding the principles of financing or managing public or private construction projects;

~~(3)~~~~]~~ One member who is licensed to practice law in this State and who has experience in the practice of construction law; and

~~[~~(4)~~]~~ ***(3)*** Two members who are licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

(b) The Majority Leader of the Senate shall appoint one member who is licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

(c) The Speaker of the Assembly shall appoint one member who is licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

3. Each member of the Board ***who is appointed*** serves at the pleasure of the appointing authority.

4. A vacancy on the Board ***in an appointed position*** must be filled by the appointing authority in the same manner as the original appointment.

Sec. 88. (Deleted by amendment.)

~~[~~Sec. 61~~]~~ ***Sec. 88.5.*** NRS 341.070 is hereby amended to read as follows:

341.070 The Board shall:

1. Adopt such rules for the regulation of its proceedings and the transaction of its business as it deems proper.

2. Meet ~~[~~at least once every 3 months.~~]~~ ***as necessary to conduct the business of the Board for the following purposes:***

(a) Submitting reports and making recommendations as required pursuant to NRS 341.191;

(b) Adopting regulations; and

(c) Presiding over appeals taken on the following matters:

(1) The qualification of contractors; and

(2) Disputes regarding contracts.

~~[Sec. 62.]~~ ***Sec. 89.*** 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]~~ ***Administrator*** and the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement serve at the pleasure of the ~~[Board and the Governor.]~~ ***Director of the Department.***

2. The ~~[Manager, with the approval of the Board,]~~ ***Administrator*** shall appoint :

(a) A ~~*[a]*~~ deputy ~~[manager]~~ ***administrator*** for professional services ~~*[.]*~~ **; and**

(b) A deputy ~~[manager for administrative, fiscal and constructional services.]~~ ***administrator of the Buildings and Grounds Section.***

➥ **Each** ~~*[The]*~~ deputy ~~[manager]~~ ***administrator*** appointed pursuant to this subsection serves at the pleasure of the ~~[Manager.]~~ ***Administrator.***

3. ***The Administrator shall recommend and the Director shall appoint a deputy administrator for compliance and code enforcement. The deputy administrator appointed pursuant to this subsection has the final authority in the interpretation and enforcement of any applicable building codes.***

4. The ~~[Manager]~~ ***Administrator*** may appoint such other technical and clerical assistants as may be necessary to carry into effect the provisions of this chapter.

~~[4.]~~ ***5.*** The ~~[Manager]~~ ***Administrator*** and each deputy ~~[manager]~~ ***administrator*** are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, the ~~[Manager]~~ ***Administrator*** and each deputy ~~[manager]~~ ***administrator*** 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.]~~ ***6.*** The ~~[Manager]~~ ***Administrator*** and the deputy ~~[manager]~~ ***administrator*** 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]~~ ***administrator*** 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.]~~ ***Administrator.***

8. The ~~[Manager]~~ ***Administrator*** shall:

(a) Serve as the Secretary of the Board.

(b) Manage the daily affairs of the ~~[Board.]~~ ***Division.***

(c) Represent the Board ***and the Division*** 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]~~ ***Select*** architects, engineers and contractors.

(f) ~~[Make recommendations to the Board concerning the acceptance of]~~ *Accept* completed projects.

(g) Submit in writing to the ~~[Board,]~~ ***Director of the Department,*** 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]~~ ***administrator*** for compliance and code enforcement shall 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.

~~[Sec. 63.]~~ ***Sec. 90.*** NRS 341.105 is hereby amended to read as follows:

341.105 1. When acting in the capacity of building official pursuant to subsection 9 of NRS 341.100, the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement or his or her designated representative may issue an order to compel the cessation of work on all or any portion of a building or structure based on health or safety reasons or for violations of applicable building codes or other laws or regulations.

2. If a person receives an order issued pursuant to subsection 1, the person shall immediately cease work on the building or structure or portion thereof.

3. Any person who willfully refuses to comply with an order issued pursuant to subsection 1 or who willfully encourages another person to refuse to comply or assists another person in refusing to comply with such an order is guilty of a misdemeanor and shall be punished as provided in

NRS 193.150. Any penalties collected pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.

4. In addition to the criminal penalty set forth in subsection 3, the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement may impose an administrative penalty of not more than $1,000 per day for each day that a person violates subsection 3.

5. If a person wishes to contest an order issued to the person pursuant to subsection 1, the person may bring an action in district court. The court shall give such a proceeding priority over other civil matters that are not expressly given priority by law. An action brought pursuant to this subsection does not stay enforcement of the order unless the district court orders otherwise.

6. If a person refuses to comply with an order issued pursuant to subsection 1, the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement may bring an action in the name of the State of Nevada in district court to compel compliance and to collect any administrative penalties imposed pursuant to subsection 4. The court shall give such a proceeding priority over other civil matters that are not expressly given priority by law. Any attorney's fees and costs awarded by the court in favor of the State and any penalties collected in the action must be deposited with the State Treasurer for credit to the State General Fund.

7. No right of action exists in favor of any person by reason of any action or failure to act on the part of the ***Division, Director of the Department, Administrator,*** Board ~~[,]~~ ***or*** the deputy ~~[manager]~~ ***administrator*** for compliance and code enforcement or any officers, employees or agents of the ~~[Board]~~ ***Division*** in carrying out the provisions of this section.

8. As used in this section, "person" includes a government and a governmental subdivision, agency or instrumentality.

~~[Sec. 64.]~~ ***Sec. 91.*** NRS 341.110 is hereby amended to read as follows:

341.110 In general, the ~~[Board]~~ ***Administrator*** shall have such powers as may be necessary to enable ~~[it]~~ ***him or her*** to fulfill ~~[its]~~ ***his or her*** functions and to carry out the purposes of this chapter.

~~[Sec. 65.]~~ ***Sec. 92.*** NRS 341.119 is hereby amended to read as follows:

341.119 1. ~~[Upon]~~ ***Except as otherwise provided in this subsection, upon*** the request of the head of a state agency, the ~~[Board]~~ ***Administrator*** may delegate to that agency any of the authority granted the ~~[Board]~~ ***Division*** pursuant to NRS 341.141 to 341.148, inclusive. ***The Administrator shall not delegate the powers described in subsection 2 of NRS 341.145.***

2. This section does not limit any of the authority of the Legislature when the Legislature is in regular or special session or the Interim Finance Committee when the Legislature is not in regular or special session to consult with the ~~[Board]~~ ***Division*** concerning a construction project or to approve the advance planning of a project.

~~[Sec. 66.]~~ ***Sec. 93.*** NRS 341.141 is hereby amended to read as follows:

341.141 1. The ~~[Board]~~ ***Division*** shall furnish engineering and architectural services to the Nevada System of Higher Education and all other state departments, boards or commissions charged with the construction of any building constructed on state property or for which the money is appropriated by the Legislature, except:

(a) Buildings used in maintaining highways;

(b) Improvements, other than nonresidential buildings with more than 1,000 square feet in floor area, made:

(1) In state parks by the State Department of Conservation and Natural Resources; or

(2) By the Department of Wildlife; and

(c) Buildings on property controlled by other state agencies if the ~~[Board]~~ ***Administrator*** has delegated ~~[its]~~ ***his or her*** authority in accordance with NRS 341.119.

➥ The Board of Regents of the University of Nevada and all other state departments, boards or commissions shall use those services.

2. The services must consist of:

(a) Preliminary planning;

(b) Designing;

(c) Estimating of costs; and

(d) Preparation of detailed plans and specifications.

~~[Sec. 67.]~~ ***Sec. 94.*** NRS 341.145 is hereby amended to read as follows:

341.145 ***1***. The Board:

~~[1.]~~ ***(a)*** Shall determine whether any rebates are available from a public utility for installing devices in any state building which are designed to decrease the use of energy in the building. If such a rebate is available, the ~~[Board]~~ ***Administrator*** shall apply for the rebate.

~~[2.]~~ ***(b)*** Shall solicit bids for and let all contracts for new construction or major repairs.

~~[3.]~~ ***(c)*** May negotiate with the lowest responsible and responsive bidder on any contract to obtain a revised bid if:

~~[(a)]~~ ***(1)*** The bid is less than the appropriation made by the Legislature for that building project; and

~~[(b)]~~ ***(2)*** The bid does not exceed the relevant budget item for that building project as established by the ~~[Board]~~ ***Administrator*** by more than 10 percent.

~~[4.]~~ ***(d)*** May reject any or all bids.

~~[5.]~~ ***(e)*** After the contract is let, shall supervise and inspect construction and major repairs. The cost of supervision and inspection must be financed from the capital construction program approved by the Legislature.

~~[6.]~~ ***(f)*** Shall obtain prior approval from the Interim Finance Committee before authorizing any change in the scope of the design or construction of a

project as that project was authorized by the Legislature, if the change increases or decreases the total square footage or cost of the project by 10 percent or more.

~~[7.]~~ ***(g)*** Except for changes that require prior approval pursuant to ~~[subsection 6,]~~ ***paragraph (f)*** may authorize change orders, before or during construction:

~~[(a)]~~ ***(1)*** In any amount, where the change represents a reduction in the total awarded contract price.

~~[(b)]~~ ***(2)*** Except as otherwise provided in ~~[paragraph (c),]~~ ***subparagraph (3),*** not to exceed in the aggregate 15 percent of the total awarded contract price, where the change represents an increase in that price.

~~[(c)]~~ ***(3)*** In any amount, where the total awarded contract price is less than $50,000 and the change represents an increase not exceeding the amount of the total awarded contract price.

~~[(d)]~~ ***(4)*** In any amount, where additional money was authorized or appropriated by the Legislature and issuing a new contract would not be in the best interests of the State.

~~[8.]~~ ***(h)*** Shall specify in any contract with a design professional the period within which the design professional must prepare and submit to the ~~[Board]~~ ***Administrator*** a change order that has been authorized by the design professional. As used in this ~~[subsection,]~~ ***paragraph,*** "design professional" means a person with a professional license or certificate issued pursuant to chapter 623, 623A or 625 of NRS.

~~[9.]~~ ***(i)*** Has final authority to accept each building or structure, or any portion thereof, on property of the State or held in trust for any division of the State Government as completed or to require necessary alterations to conform to the contract ***,*** ~~[or to codes adopted by the Board,]~~ and to file the notice of completion ~~[and certificate of occupancy]~~ for the building or structure.

2. The deputy administrator for compliance and code enforcement, when acting as building official pursuant to subsection 9 of NRS 341.100, has the final authority in:

(a) Requiring necessary alterations to conform to any building codes adopted by the Board; and

(b) Issuing a certificate of occupancy for a building or structure.

~~[Sec. 68.]~~ ***Sec. 95.*** NRS 341.146 is hereby amended to read as follows:

341.146 1. The ~~[Board]~~ ***Division*** shall establish funds for projects of capital construction necessary to account for the program of capital construction approved by the Legislature. These funds must be used to account for all revenues, appropriations and expenditures restricted to constructing buildings and other projects which come under the supervision of the ~~[Board.]~~ ***Division.***

2. If a state department, board, commission or agency provides to the ~~[Board]~~ ***Division*** money that has not been appropriated by the Legislature for

a capital improvement project, any interest earned on that money accrues to the benefit of the project. Upon a determination by the ~~[~~Board~~]~~ ***Administrator*** that the project is completed, the ~~[~~Board~~]~~ ***Division*** shall return any principal and interest remaining on that money to the department, board, commission or agency that had provided the money to the ~~[~~Board.~~]~~ ***Division.***

3. Except as otherwise provided in subsection 4, if the money actually received by the ~~[~~Board~~]~~ ***Division*** for a capital improvement project includes money from more than one source, the money must be expended in the following order:

(a) Money received for the project from the Federal Government;

(b) Money generated by the state department, board, commission or agency for whom the project is being performed;

(c) Money that was approved for the same or a different project during a previous biennium that has been reallocated during the current biennium for the project;

(d) Except as otherwise provided in paragraphs (e), (f) and (g), money received for the project from any other source;

(e) Money from the issuance of general obligation bonds;

(f) Money from the State Highway Fund; and

(g) Money from the State General Fund.

4. The provisions of subsection 3 do not apply if the receipt of any money from the Federal Government for the project is conditioned upon a different order of expenditure.

~~[~~Sec. 69.~~]~~ ***Sec. 96.*** NRS 341.153 is hereby amended to read as follows:

341.153 1. The Legislature hereby finds as facts:

(a) That the ***planning, maintenance and*** construction of public buildings is a specialized field requiring for its successful accomplishment a high degree of skill and experience not ordinarily acquired by public officers and employees whose primary duty lies in some other field.

(b) That this ***planning, maintenance and*** construction involves the expenditure of large amounts of public money which, whatever their particular constitutional, statutory or governmental source, involve a public trust.

(c) That the application by state agencies of conflicting standards of performance results in wasteful delays and increased costs in the performance of public works.

2. The Legislature therefore declares it to be the policy of this State that all ***planning, maintenance and*** construction of buildings upon property of the State or held in trust for any division of the State Government be supervised by, and final authority for its completion and acceptance vested in, the ~~[~~Board~~]~~ ***Division*** as provided in NRS 341.141 to 341.148, inclusive.

~~[~~Sec. 70.~~]~~ ***Sec. 97.*** NRS 341.155 is hereby amended to read as follows:

341.155 With the concurrence of the ~~[Board,]~~ ***Administrator,*** the Board of Regents of the University of Nevada and any other state department, board or commission may enter into agreements with persons, associations or corporations to provide consulting services to determine and plan the construction work that may be necessary to meet the needs of the programs of those agencies. These contracts must be for a term not exceeding 5 years and must provide for payment of a fee for those services not to exceed one-half of 1 percent of the total value of:

1. In the case of the Nevada System of Higher Education, building construction contracts relating to the construction of a branch or facility within the Nevada System of Higher Education; and

2. In the case of another state department, board or commission, all construction contracts relating to construction for that agency,

➥ during the term and in the area covered by the contract.

~~[Sec. 71.]~~ ***Sec. 98.*** NRS 341.161 is hereby amended to read as follows:

341.161 1. The ~~[Board]~~ ***Administrator*** may let to a contractor licensed under chapter 624 of NRS a contract for services which assist the ~~[Board]~~ ***Division*** in the design and construction of a project of capital improvement.

2. The Board shall adopt regulations establishing procedures for:

(a) The determination of the qualifications of contractors to bid for contracts for services described in subsection 1.

(b) The bidding and awarding of such contracts, subject to the provisions of subsection 3.

(c) The awarding of construction contracts based on a final cost of the project which the contractor guarantees will not be exceeded.

(d) The scheduling and controlling of projects.

3. Bids on contracts for services which assist the ~~[Board]~~ ***Division*** in the design and construction of a project of capital improvement must state separately the contractor's cost for:

(a) Assisting the ~~[Board]~~ ***Division*** in the design and construction of the project.

(b) Obtaining all bids for subcontracts.

(c) Administering the construction contract.

4. A person who furnishes services under a contract awarded pursuant to subsection 1 is a contractor subject to all provisions pertaining to a contractor in title 28 of NRS.

~~[Sec. 72.]~~ ***Sec. 99.*** NRS 341.166 is hereby amended to read as follows:

341.166 1. The ~~[Board]~~ ***Administrator*** may enter into a contract for services with a contractor licensed pursuant to chapter 624 of NRS to assist the ~~[Board:]~~ ***Division:***

(a) In the development of designs, plans, specifications and estimates of costs for a proposed construction project.

(b) In the review of designs, plans, specifications and estimates of costs for a proposed construction project to ensure that the designs, plans, specifications and estimates of costs are complete and that the project is feasible to construct.

2. The ~~[Board]~~ ***Division*** is not required to advertise for bids for a contract for services pursuant to subsection 1, but may solicit bids from not fewer than three licensed contractors and may award the contract to the lowest responsible and responsive bidder.

3. The Board shall adopt regulations establishing procedures for:

(a) The determination of the qualifications of contractors to bid for the contracts for services described in subsection 1.

(b) The bidding and awarding of such contracts.

4. If a proposed construction project for which a contractor is awarded a contract for services by the ~~[Board]~~ ***Division*** pursuant to subsection 1 is advertised pursuant to NRS 338.1385, that contractor may submit a bid for the contract for the proposed construction project if the contractor is qualified pursuant to NRS 338.1375.

~~[Sec. 73.]~~ ***Sec. 100.*** NRS 341.211 is hereby amended to read as follows:

341.211 The ~~[Board]~~ ***Division*** shall:

1. Cooperate with other departments and agencies of the State in their planning efforts.

2. Advise and cooperate with municipal, county and other local planning commissions within the State to promote coordination between the State and the local plans and developments.

3. **Cooperate with the Nevada Arts Council ~~[and]~~ *of* the ~~[Buildings and Grounds Division of the]~~ Department of ~~[Administration]~~ *Tourism and Cultural Affairs* to plan** ~~*[Plan]*~~ the potential purchase and placement of works of art inside or on the grounds surrounding a state building.

Sec. 101. **NRS 349.510 is hereby amended to read as follows:**

349.510 "Project" means:

1. Any land, building or other improvement and all real and personal properties necessary in connection therewith, excluding inventories, raw materials and working capital, whether or not in existence, suitable for new construction, improvement, rehabilitation or redevelopment for:

(a) Industrial uses, including assembling, fabricating, manufacturing, processing or warehousing;

(b) Research and development relating to commerce or industry, including professional, administrative and scientific offices and laboratories;

(c) Commercial enterprises;

(d) Civic and cultural enterprises open to the general public, including theaters, museums and exhibitions, together with buildings and other structures, machinery, equipment, facilities and appurtenances thereto which the Director deems useful or desirable in connection with the conduct of any such enterprise;

(e) An educational institution operated by a nonprofit organization not otherwise directly funded by the State which is accredited by a nationally recognized educational accrediting association;

(f) Health and care facilities and supplemental facilities for health and care;

(g) The purposes of a corporation for public benefit; or

(h) A renewable energy generation project.

2. Any real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire.

3. The preservation of a historic structure or its restoration for its original or another use, if the plan has been approved by the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

Sec. 102. **NRS 350.575 is hereby amended to read as follows:**

350.575 1. Upon the adoption of a resolution to finance the preservation or restoration of a historic structure, in the manner provided in NRS 350.087, by a municipality, a certified copy thereof must be forwarded to the Executive Director of the Department of Taxation, accompanied by a letter from the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs]~~ ***Conservation and Natural Resources*** certifying that the preservation or restoration conforms to accepted standards for such work. As soon as is practicable, the Executive Director of the Department of Taxation shall, after consideration of the tax structure of the municipality concerned and the probable ability of the municipality to repay the requested financing, approve or disapprove the resolution in writing to the governing board. No such resolution is effective until approved by the Executive Director of the Department of Taxation. The written approval of the Executive Director of the Department of Taxation must be recorded in the minutes of the governing board.

2. If the Executive Director of the Department of Taxation does not approve the financing resolution, the governing board of the municipality may appeal the Executive Director's decision to the Nevada Tax Commission.

3. As used in this section, "historic structure" means a building, facility or other structure which is eligible for listing in the State Register of Historic Places under NRS 383.085.

Sec. 103. **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 each in value; and

(b) Governmental grants not exceeding $100,000 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 ***Tourism and*** Cultural Affairs.

Sec. 104. **NRS 353.3465 is hereby amended to read as follows:**

353.3465 1. If the Director of the Department of ***Tourism and*** Cultural Affairs determines that current claims exceed the amount of money available because revenue from fees or assessments has not been collected or because of a delay in other expected receipts, he or she may request from the Director of the Department of Administration a temporary advance from the State General Fund for the payment of authorized expenses.

2. The Director of the Department of Administration shall notify the State Controller and the Fiscal Analysis Division of the Legislative Counsel Bureau of his or her approval of a request made pursuant to subsection 1. The State Controller shall draw his or her warrant upon receipt of the approval by the Director of the Department of Administration.

3. An advance from the State General Fund:

(a) May be approved by the Director of the Department of Administration.

(b) Is limited to 25 percent of the revenue expected to be received in the current fiscal year from any source other than legislative appropriation.

4. Any money which is temporarily advanced from the State General Fund pursuant to subsection 3 must be repaid by August 31 following the end of the immediately preceding fiscal year.

Sec. 105. **NRS 361A.050 is hereby amended to read as follows:**

361A.050 "Open-space use" means the current employment of land, the preservation of which use would conserve and enhance natural or scenic resources, protect streams and water supplies, maintain natural features which enhance control of floods or preserve sites designated as historic by the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.*** The use of real property and the improvements on that real property as a golf course shall be deemed to be an open-space use of the land. The use of land to lease surface water rights appurtenant to the property to a political subdivision of this State for a municipal use shall be deemed to be an open-space use of the land, if the land was agricultural real property at the time the lease was granted.

Sec. 106. **NRS 376A.010 is hereby amended to read as follows:**

376A.010 As used in this chapter, unless the context otherwise requires:

1. "Open-space land" means land that is undeveloped natural landscape, including, but not limited to, ridges, stream corridors, natural shoreline, scenic areas, viewsheds, agricultural or other land devoted exclusively to open-space use and easements devoted to open-space use that are owned, controlled or leased by public or nonprofit agencies.

2. "Open-space plan" means the plan adopted by the board of county commissioners of a county to provide for the acquisition, development and use of open-space land.

3. "Open-space use" includes:

(a) The preservation of land to conserve and enhance natural or scenic resources;

(b) The protection of streams and stream environment zones, watersheds, viewsheds, natural vegetation and wildlife habitat areas;

(c) The maintenance of natural and artificially created features that control floods, other than dams;

(d) The preservation of natural resources and sites that are designated as historic by the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs;]~~ ***Conservation and Natural Resources;*** and

(e) The development of recreational sites.

~~[Sec. 74.]~~ ***Sec. 107.*** Chapter 378 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[75]~~ **108, 109** and ~~[76]~~ **110** of this act.

Sec. 108. 1. The Department of Administration's Communications Fund is hereby created as an internal service fund. The Fund is a continuing fund, and its money may not revert to the State General Fund at any time.

2. Claims against the Fund which are approved by the State Library and Archives Administrator must be paid as other claims against the State are paid.

3. Claims must be made in accordance with budget and quarterly work allotments and subject to postaudit examination and approval.

~~[Sec. 75.]~~ ***Sec. 109. 1. All revenue resulting from:***

(a) Postage sold to state officers, departments and agencies; and

(b) Charges for proportionate costs of mail service operation,

➥ must be deposited in the State Treasury for credit to the Communications Fund created by NRS 331.103.

2. The formula for spreading costs of operation must be adjusted from time to time to preserve the Fund at not less than its initial level.

~~[Sec. 76.]~~ ***Sec. 110. 1. The Division shall establish and conduct a Central Mailing Room for all state officers, departments and agencies located at Carson City, Nevada.***

2. Any state officer, department or agency may use the Central Mailing Room facilities if the state officer, department or agency pays the cost of such use as determined by the Division.

3. The staff of the Central Mailing Room shall deliver incoming mail and pick up and process outgoing mail, except outgoing parcel post from the Legal Division of the Legislative Counsel Bureau, other than interoffice mail, of all state officers, departments and agencies using the Central Mailing Room facilities.

~~[Sec. 77.]~~ ***Sec. 111.*** NRS 378.005 is hereby amended to read as follows:

378.005 As used in this chapter:

1. "Department" means the Department of ~~[Cultural Affairs.]~~ ***Administration.***

2. "Director" means the Director of the Department.

3. "Division" means the Division of State Library and Archives of the Department.

~~[Sec. 78.]~~ ***Sec. 112.*** NRS 378.0083 is hereby amended to read as follows:

378.0083 The creation of ***the Division in*** the Department does not affect any bequest, devise, endowment, trust, allotment or other gift made to ~~[a division or institution of the Department]~~ ***the Division*** and those gifts inure to the benefit of the ~~[division or institution]~~ ***Division*** and remain subject to any conditions or restraints placed on the gifts.

~~[Sec. 79.]~~ ***Sec. 113.*** NRS 378.070 is hereby amended to read as follows:

378.070 The State Library and Archives Administrator may designate the hours that the State Library and Archives must be open for the use of the public . ~~[, but they must be open for at least 5 days in each week and for at least 8 hours in each day with the exception of legal holidays.]~~

~~[Sec. 80.]~~ ***Sec. 114.*** NRS 378A.040 is hereby amended to read as follows:

378A.040 1. The Governor shall appoint to the Board:

(a) The person who is in charge of the archives and records of the Division of State Library and Archives of the Department of ~~[Cultural Affairs.]~~ ***Administration.*** This person is the State Historical Records Coordinator for the purposes of 36 C.F.R. § 1206.36 and shall serve as Chair of the Board.

(b) A person in charge of a state-funded historical agency who has responsibilities related to archives or records, or to both archives and records.

(c) Seven other members, at least three of whom must have experience in the administration of historical records or archives. These members must represent as broadly as possible the various public and private archive and research institutions and organizations in the State.

2. After the initial terms, the Chair serves for 4 years and each other appointed member serves for 3 years. Members of the Board may be reappointed.

~~[Sec. 81.]~~ ***Sec. 115.*** NRS 379.0083 is hereby amended to read as follows:

379.0083 The State Library and Archives Administrator may adopt regulations establishing fees:

1. Of not more than $5 for the issuance and renewal of a certificate. The fee for issuing a duplicate certificate must be the same as for issuing the original. The money received from such fees must be paid into the State General Fund.

2. To cover the amount charged by the Federal Bureau of Investigation for processing the fingerprints of an applicant. The money received from such fees must be deposited with the State Treasurer for credit to the

appropriate account of the Division of State Library and Archives of the Department of ~~[~~Cultural Affairs.~~]~~ ***Administration.***

~~[~~Sec. 82.~~]~~ ***Sec. 116.*** NRS 380A.031 is hereby amended to read as follows:

380A.031 1. The State Council on Libraries and Literacy is hereby created. The Council is advisory to the Division of State Library and Archives of the Department of ~~[~~Cultural Affairs.~~]~~ ***Administration.***

2. The Council consists of 11 members appointed by the Governor. Unless specifically appointed to a shorter term, the term of office of a member of the Council is 3 years and commences on July 1 of the year of appointment. The terms of office of the members of the Council must be staggered to result in, as nearly as possible, the appointment of three or four members to the Council on July 1 of each year.

~~[~~Sec. 83.~~]~~ ***Sec. 117.*** NRS 380A.041 is hereby amended to read as follows:

380A.041 1. The Governor shall appoint to the Council:

(a) A representative of public libraries;

(b) A trustee of a legally established library or library system;

(c) A representative of school libraries;

(d) A representative of academic libraries;

(e) A representative of special libraries or institutional libraries;

(f) A representative of persons with disabilities;

(g) A representative of the public who uses these libraries;

(h) A representative of recognized state labor organizations;

(i) A representative of private sector employers;

(j) A representative of private literacy organizations, voluntary literacy organizations or community-based literacy organizations; and

(k) A classroom teacher who has demonstrated outstanding results in teaching children or adults to read.

2. The director of the following state agencies or their designees shall serve as ex officio members of the Council:

(a) The Department of ~~[~~Cultural Affairs;~~]~~ ***Administration;***

(b) The Department of Education;

(c) The Department of Employment, Training and Rehabilitation;

(d) The Department of Health and Human Services;

(e) The Commission on Economic Development; and

(f) The Department of Corrections.

3. Officers of State Government whose agencies provide funding for literacy services may be designated by the Governor or the Chair of the Council to serve whenever matters within the jurisdiction of the agency are considered by the Council.

4. The Governor shall ensure that there is appropriate representation on the Council of urban and rural areas of the State, women, persons with disabilities, and racial and ethnic minorities.

5. A person may not serve as a member of the Council for more than two consecutive terms.

Sec. 118. **NRS 381.001 is hereby amended to read as follows:**

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

1. "Administrator" means the Administrator of the Division.
2. "Board" means the Board of Museums and History.
3. "Department" means the Department of ***Tourism and*** Cultural Affairs.
4. "Director" means the Director of the Department.
5. "Division" means the Division of Museums and History of the Department.
6. "Institution" means an institution of the Division established pursuant to NRS 381.004.
7. "Museum director" means the executive director of an institution of the Division appointed by the Administrator pursuant to NRS 381.0062.

Sec. 119. **NRS 381.002 is hereby amended to read as follows:**

381.002 1. The Board of Museums and History, consisting of eleven members appointed by the Governor, is hereby created.

2. The Governor shall appoint to the Board:

(a) ~~[Six]~~ ***Five*** representatives of the general public who are knowledgeable about museums.

(b) ~~[Five]~~ ***Six*** members representing the fields of history, prehistoric archeology, historical archeology, architectural history, and architecture with qualifications as defined by the Secretary of Interior's standards for historic preservation in the following fields:

(1) One member who is qualified in history;

(2) One member who is qualified in prehistoric archeology;

(3) One member who is qualified in historic archeology;

(4) One member who is qualified in architectural history; ~~[and]~~

(5) One member who is qualified as an architect ~~[.]~~ ***; and***

(6) One additional member who is qualified, as defined by the Secretary of Interior's standards for historic preservation, in any of the fields of expertise described in subparagraphs (1) to (5), inclusive.

3. The Board shall elect a Chair and a Vice Chair from among its members at its first meeting of every even-numbered year. The terms of the Chair and Vice Chair are 2 years or until their successors are elected.

4. With respect to the functions of the Office of Historic Preservation, the Board may develop, review and approve policy for:

(a) Matters relating to the State Historic Preservation Plan;

(b) Nominations to the National Register of Historic Places and make a determination of eligibility for listing on the Register for each property nominated; and

(c) Nominations to the State Register of Historic Places and make determination of eligibility for listing on the Register for each property nominated.

5. With respect to the functions of the Division, the Board shall develop, review and make policy for investments, budgets, expenditures and general control of the Division's private and endowed dedicated trust funds pursuant to NRS 381.003 to 381.0037, inclusive.

6. In all other matters pertaining to the Office of Historic Preservation and the Division of Museums and History, the Board serves in an advisory capacity.

7. The Board may adopt such regulations as it deems necessary to carry out its powers and duties.

Sec. 120. **NRS 381.003 is hereby amended to read as follows:**

381.003 The Board may establish ~~[shops]~~ ***stores*** for the sale of gifts and souvenirs, such as publications, books, postcards, color slides and such other related material as, in the judgment of the Board, is appropriately connected with the operation of the institutions or the purposes of this chapter.

Sec. 121. **NRS 381.0037 is hereby amended to read as follows:**

381.0037 The Board may establish:

1. A petty cash account for the Division and each institution in an amount not to exceed $500 for each account. Reimbursement of the account must be made from appropriated money paid out on claims as other claims against the State are paid.

2. A change account for each institution for which a ~~[shop]~~ ***store*** for the sale of gifts and souvenirs has been established pursuant to NRS 381.003, in an amount not to exceed $1,500.

Sec. 122. **NRS 381.005 is hereby amended to read as follows:**

381.005 1. The Administrator is appointed by the Director. The Director shall consult with the Board before making the appointment.

2. To be qualified for appointment, the Administrator must have a degree in history or science and experience in public administration.

3. ~~[The]~~ ***Except as otherwise provided pursuant to subsection 4 of NRS 231.230, the*** Administrator is in the unclassified service of the State.

4. The Administrator may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of his or her duties.

Sec. 123. **NRS 381.0063 is hereby amended to read as follows:**

381.0063 1. The Administrator shall, in accordance with any directive received from the Director pursuant to NRS 232.005 **,** ~~[or 378.0089,]~~ authorize or require each museum director to perform such duties set forth in subsections 2 and 3 as are necessary for the operation of the institution administered by the museum director, after giving consideration to:

(a) The size and complexity of the programs the museum director is required to administer;

(b) The number of personnel needed to carry out those programs;

(c) Requirements for accreditation; and

(d) Such other factors as are relevant to the needs of the institution and the Division.

2. The Administrator may authorize or require a museum director to:

(a) Oversee duties related to the auditing and approval of all bills, claims and accounts of the institution administered by the museum director.

(b) Receive, collect, exchange, preserve, house, care for, ***document,*** ***interpret,*** display and exhibit, particularly, but not exclusively, respecting the State of Nevada:

(1) Samples of the useful and fine arts, sciences and industries, relics, memorabilia, products, works, records, rare and valuable articles and objects, including, without limitation, drawings, etchings, lithographs, photographs, paintings, statuary, sculpture, fabrics, furniture, implements, machines, geological and mineral specimens, precious, semiprecious and commercial minerals, metals, earths, gems and stones.

(2) Books, papers, records and documents of historic, artistic, literary or industrial value or interest by reason of rarity, representative character or otherwise.

(c) Collect, gather and prepare the natural history of Nevada and the Great Basin.

(d) Establish such programs in ***history,*** archeology, anthropology, paleontology, mineralogy, ethnology, ornithology and such other ~~[scientific]~~ programs as in the judgment of the Board and Administrator may be proper and necessary to carry out the objects and purposes appropriate to the institution administered by the museum director.

(e) Receive and collect property from any appropriate agency of the State of Nevada, or from accessions, gifts, exchanges, loans or purchases from any other agencies, persons or sources.

(f) House and preserve, care for and display or exhibit property received by an institution. This paragraph does not prevent the permanent or temporary retention, placement, housing or exhibition of a portion of the property in other places or locations in or outside of the State at the sole discretion of the Board.

(g) Make and obtain plans and specifications and let and supervise contracts for work or have the work done on force account or day labor, supplying material or labor, or otherwise.

(h) Receive, accept and obtain by exchange in the name of the State of Nevada all property loaned to the institution administered by the museum director for preservation, care, display or exhibit, or decline and reject the property in his or her discretion, and undertake to be responsible for all property loaned to the institution or make just payment of any reasonable costs or rentals therefor.

(i) Apply for and expend all gifts and grants that the institution administered by the museum director is authorized to accept in accordance with the terms and conditions of the gift or grant.

(j) Govern, manage and control the exhibit and display of all property and things of the institution administered by the museum director at other exhibits, expositions, world's fairs and places of public or private exhibition.

Any property of the State of Nevada that may be placed on display or on exhibition at any world's fair or exposition must be taken into custody by the Administrator at the conclusion of the world's fair or exposition and placed and kept in the institution, subject to being removed and again exhibited at the discretion of the Administrator or a person designated by the Administrator.

(k) Negotiate and consult with and agree with other institutions, departments, officers and persons or corporations of and in the State of Nevada and elsewhere respecting quarters for and the preservation, care, transportation, storage, custody, ***documentation, interpretation,*** display and exhibit of articles and things controlled by the institutions and respecting the terms and cost, the manner, time, place and extent, and the return thereof.

(l) Trade, exchange and transfer exhibits and duplicates when the Administrator deems it proper. Such transactions shall not be deemed sales.

(m) Establish the qualifications for life, honorary, annual, sustaining and such other memberships as are established by the Board pursuant to NRS 381.0045.

(n) Adopt rules for the internal operations of the institution administered by the museum director, including, without limitation, the operation of equipment of the institution.

3. The Administrator shall require a museum director to serve as, or to designate an employee to serve as, ex officio State Paleontologist. The State Paleontologist shall, within the limits of available time, money and staff:

(a) Systematically inventory the paleontological resources within the State of Nevada;

(b) Compile a database of fossil resources within this State;

(c) Coordinate and promote paleontological research activities within this State, including, without limitation, regulating and issuing permits to engage in such activities;

(d) Disseminate and assist other persons in disseminating information gained from research conducted by the State Paleontologist; and

(e) Display and promote, and assist other persons in displaying and promoting, the paleontological resources of this State to enhance education, culture and tourism within this State.

4. The enumeration of the powers and duties that may be assigned to a museum director pursuant to this section is not exclusive of other general objects and purposes appropriate to a public museum.

5. The provisions of this section do not prohibit the Administrator from making such administrative and organizational changes as are necessary for the efficient operation of the Division and its institutions and to ensure that an institution properly carries out the duties and responsibilities assigned to that institution.

Sec. 124. **NRS 381.197 is hereby amended to read as follows:**

381.197 Except for action taken under an agreement with the Office of Historic Preservation of the ***State*** Department ***of Conservation and Natural***

Resources pursuant to NRS 383.430, and except as otherwise provided in this section, a person shall not investigate, explore or excavate an historic or prehistoric site on federal or state lands or remove any object therefrom unless the person is the holder of a valid and current permit issued pursuant to the provisions of NRS 381.195 to 381.227, inclusive. Conduct that would otherwise constitute a violation of this section is not a violation of this section if it is also a violation of NRS 383.435.

Sec. 125. **NRS 381.245 is hereby amended to read as follows:**

381.245 The Nevada Historical Society shall preserve as is deemed appropriate all old and obsolete property and obsolete and noncurrent public records presented to it by the State Library and Archives Administrator from the archives and records of the Division of State Library and Archives of the Department ~~[.]~~ ***of Administration.***

Sec. 126. **NRS 383.011 is hereby amended to read as follows:**

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

1. "Administrator" means the Administrator of the Office.
2. "Advisory Board" means the Board of Museums and History.
3. "Cultural resources" means any objects, sites or information of historic, prehistoric, archeological, architectural or paleontological significance.
4. "Director" means the Director of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***
5. "Office" means the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

Sec. 126.5. **NRS 383.021 is hereby amended to read as follows:**

383.021 1. The Office of Historic Preservation is hereby created.

2. The Office shall:

(a) Encourage, plan and coordinate historic preservation and archeological activities within the State, including programs to survey, record, study and preserve or salvage cultural resources.

(b) Compile and maintain an inventory of cultural resources in Nevada deemed significant by the Administrator.

(c) Designate repositories for the materials that comprise the inventory.

(d) Provide staff assistance to the Commission for Cultural Affairs of the Department of Tourism and Cultural Affairs.

3. The Comstock Historic District Commission is within the Office.

Sec. 127. **NRS 384.050 is hereby amended to read as follows:**

384.050 1. The Governor shall appoint to the Commission:

(a) One member who is a county commissioner of Storey County.

(b) One member who is a county commissioner of Lyon County.

(c) One member who is the Administrator or an employee of the Office of Historic Preservation of the ***State*** Department of ~~[Cultural Affairs.]~~ ***Conservation and Natural Resources.***

(d) Two members who are persons licensed as general engineering contractors or general building contractors pursuant to chapter 624 of NRS or

persons who hold a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(e) Four members who are persons interested in the protection and preservation of structures, sites and areas of historic interest and are residents of the district.

2. 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.

3. Each member of the Commission is entitled to receive a salary of not more than $80, as fixed by the Commission, for each day's attendance at a meeting of the Commission.

4. While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

~~[Sec. 84.]~~ ***Sec. 128.*** NRS 407.057 is hereby amended to read as follows:

407.057 1. The Division shall maintain its headquarters office at Carson City, Nevada.

2. The Division may maintain such district or branch offices throughout the State as the Administrator may deem necessary to the efficient operation of the Division and the various sections thereof. The Administrator may, subject to the approval of the Director, enter into such leases or other agreements as may be necessary to the establishment of such district or branch offices. Such leases or agreements must be executed in cooperation with the Buildings and Grounds ~~[Division]~~ ***Section of the State Public Works Division*** of the Department of Administration and in accordance with the provisions of NRS 331.110.

Sec. 129. **NRS 408.210 is hereby amended to read as follows:**

408.210 1. The Director ***of the Department of Transportation*** may restrict the use of, or close, any highway whenever the Director considers the closing or restriction of use necessary:

(a) For the protection of the public.

(b) For the protection of such highway from damage during storms or during construction, reconstruction, improvement or maintenance operations thereon.

(c) To promote economic development or tourism in the best interest of the State or upon the written request of the Executive Director of the Commission on Economic Development or the Director of the ~~[Commission on]~~ ***Department of*** Tourism ~~[.]~~ ***and Cultural Affairs.***

2. The Director ***of the Department of Transportation*** may:

(a) Divide or separate any highway into separate roadways, wherever there is particular danger to the traveling public of collisions between vehicles proceeding in opposite directions or from vehicular turning movements or cross-traffic, by constructing curbs, central dividing sections

or other physical dividing lines, or by signs, marks or other devices in or on the highway appropriate to designate the dividing line.

(b) Lay out and construct frontage roads on and along any highway or freeway and divide and separate any such frontage road from the main highway or freeway by means of curbs, physical barriers or by other appropriate devices.

3. The Director may remove from the highways any unlicensed encroachment which is not removed, or the removal of which is not commenced and thereafter diligently prosecuted, within 5 days after personal service of notice and demand upon the owner of the encroachment or the owner's agent. In lieu of personal service upon that person or agent, service of the notice may also be made by registered or certified mail and by posting, for a period of 5 days, a copy of the notice on the encroachment described in the notice. Removal by the Department of the encroachment on the failure of the owner 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, and in addition thereto the sum of $100 for each day the encroachment remains beyond 5 days after the service of the notice and demand.

4. If the Director determines that the interests of the Department are not compromised by a proposed or existing encroachment, the Director may issue a license to the owner or the owner's agent permitting an encroachment on the highway. Such a license is revocable and must provide for relocation or removal of the encroachment in the following manner. Upon notice from the Director to the owner of the encroachment or the owner's agent, the owner or agent may propose a time within which he or she will relocate or remove the encroachment as required. If the Director and the owner or the owner's agent agree upon such a time, the Director shall not himself remove the encroachment unless the owner or the owner's agent has failed to do so within the time agreed. If the Director and the owner or the owner's agent do not agree upon such a time, the Director may remove the encroachment at any time later than 30 days after the service of the original notice upon the owner or the owner's agent. Service of notice may be made in the manner provided by subsection 3. Removal of the encroachment by the Director gives the Department the right of action provided by subsection 3, but the penalty must be computed from the expiration of the agreed period or 30-day period, as the case may be.

~~[Sec. 85.]~~ ***Sec. 130.*** NRS 412.052 is hereby amended to read as follows:

412.052 The Adjutant General:

1. Shall supervise the preparation and submission of all returns and reports pertaining to the militia of the State required by the United States.

2. Is the channel of official military correspondence with the Governor, and, on or before November 1 of each even-numbered year, shall report to the Governor the transactions, expenditures and condition of the Nevada

National Guard. The report must include the report of the United States Property and Fiscal Officer.

3. Is the custodian of records of officers and enlisted personnel and all other records and papers required by law or regulations to be filed in the office of the Adjutant General. The Adjutant General may deposit with the Division of State Library and Archives of the Department of ~~[Cultural Affairs]~~ ***Administration*** for safekeeping records of the office that are used for historical purposes rather than the administrative purposes assigned to the office by law.

4. Shall attest all military commissions issued and keep a roll of all commissioned officers, with dates of commission and all changes occurring in the commissioned forces.

5. Shall record, authenticate and communicate to units and members of the militia all orders, instructions and regulations.

6. Shall cause to be procured, printed and circulated to those concerned all books, blank forms, laws, regulations or other publications governing the militia necessary to the proper administration, operation and training of it or to carry out the provisions of this chapter.

7. Shall keep an appropriate seal of office and affix its impression to all certificates of record issued from his or her office.

8. Shall render such professional aid and assistance and perform such military duties, not otherwise assigned, as may be ordered by the Governor.

~~[Sec. 86.]~~ ***Sec. 131.*** NRS 463.028 is hereby amended to read as follows:

463.028 1. The Commission shall keep its main office at Carson City, Nevada, in conjunction with the Board in rooms provided by the Buildings and Grounds ***Section of the State Public Works*** Division of the Department of Administration.

2. The Commission may, in its discretion, maintain a branch office in Las Vegas, Nevada, or at any other place in this state, in space to be provided by the Buildings and Grounds ***Section of the State Public Works*** Division ~~[.]~~ ***of the Department of Administration.***

~~[Sec. 87.]~~ ***Sec. 132.*** NRS 463.100 is hereby amended to read as follows:

463.100 1. The Board shall keep its main office at Carson City, Nevada, in conjunction with the Commission in rooms provided by the Buildings and Grounds ***Section of the State Public Works*** Division of the Department of Administration.

2. The Board may, in its discretion, maintain a branch office in Las Vegas, Nevada, or at any other place in this State as the Chair of the Board deems necessary for the efficient operation of the Board ~~[. The Chair of the Board may enter into such leases or other agreements as may be necessary to establish a branch office.]~~ ***in space provided by the Buildings and Grounds Section.***

~~[Sec. 89.]~~ ***Sec. 133.*** NRS 480.160 is hereby amended to read as follows:

480.160 1. The Department shall keep its main office at Carson City, Nevada, in rooms provided by the Buildings and Grounds ***Section of the State Public Works*** Division of the Department of Administration.

2. The Department may maintain such branch offices throughout the State as the Director deems necessary for the efficient operation of the Department and the various divisions thereof ~~[. The Director may enter into such leases or other agreements as may be necessary to establish such branch offices.]~~ ***in space provided by the Buildings and Grounds Section.***

~~[Sec. 90.]~~ ***Sec. 134.*** NRS 481.055 is hereby amended to read as follows:

481.055 1. The Department shall keep its main office at Carson City, Nevada, in rooms provided by the Buildings and Grounds ***Section of the State Public Works*** Division of the Department of Administration.

2. The Department may maintain such branch offices throughout the State as the Director may deem necessary to the efficient operation of the Department and the various divisions thereof ~~[. The Director is authorized, on behalf of the Department, to enter into such leases or other agreements as may be necessary to the establishment of such branch offices.]~~ ***in space provided by the Buildings and Grounds Section.***

Sec. 135. **NRS 482.367004 is hereby amended to read as follows:**

482.367004 1. There is hereby created the Commission on Special License Plates consisting of five Legislators and three nonvoting members as follows:

(a) Five Legislators appointed by the Legislative Commission:

(1) One of whom is the Legislator who served as the Chair of the Assembly Standing Committee on Transportation during the most recent legislative session. That Legislator may designate an alternate to serve in place of the Legislator when absent. The alternate must be another Legislator who also served on the Assembly Standing Committee on Transportation during the most recent legislative session.

(2) One of whom is the Legislator who served as the Chair of the Senate Standing Committee on Transportation during the most recent legislative session. That Legislator may designate an alternate to serve in place of the Legislator when absent. The alternate must be another Legislator who also served on the Senate Standing Committee on Transportation during the most recent legislative session.

(b) Three nonvoting members consisting of:

(1) The Director of the Department of Motor Vehicles, or a designee of the Director.

(2) The Director of the Department of Public Safety, or a designee of the Director.

(3) The Director of the Department of ***Tourism and*** Cultural Affairs, or a designee of the Director.

2. Each member of the Commission appointed pursuant to paragraph (a) of subsection 1 serves a term of 2 years, commencing on July 1 of each odd-numbered year. A vacancy on the Commission must be filled in the same manner as the original appointment.

3. Members of the Commission serve without salary or compensation for their travel or per diem expenses.

4. The Director of the Legislative Counsel Bureau shall provide administrative support to the Commission.

5. The Commission shall approve or disapprove:

(a) Applications for the design, preparation and issuance of special license plates that are submitted to the Department pursuant to subsection 1 of NRS 482.367002;

(b) The issuance by the Department of special license plates that have been designed and prepared pursuant to NRS 482.367002; and

(c) Except as otherwise provided in subsection 6, applications for the design, preparation and issuance of special license plates that have been authorized by an act of the Legislature after January 1, 2007.

➥ In determining whether to approve such an application or issuance, the Commission shall consider, without limitation, whether it would be appropriate and feasible for the Department to, as applicable, design, prepare or issue the particular special license plate. The Commission shall consider each application in the chronological order in which the application was received by the Department.

6. The provisions of paragraph (c) of subsection 5 do not apply with regard to special license plates that are issued pursuant to NRS 482.3785.

7. The Commission shall:

(a) Approve or disapprove any proposed change in the distribution of money received in the form of additional fees. As used in this paragraph, "additional fees" means the fees that are charged in connection with the issuance or renewal of a special license plate for the benefit of a particular cause, fund or charitable organization. The term does not include registration and license fees or governmental services taxes.

(b) If it approves a proposed change pursuant to paragraph (a) and determines that legislation is required to carry out the change, request the assistance of the Legislative Counsel in the preparation of a bill draft to carry out the change.

Sec. 136. **NRS 482.37903 is hereby amended to read as follows:**

482.37903 1. Except as otherwise provided in this subsection, the Department, in cooperation with the Board of Museums and History of the Department of ***Tourism and*** Cultural Affairs, shall design, prepare and issue license plates which commemorate the 100th anniversary of the founding of the City of Las Vegas, using any colors and designs that the Department deems appropriate. The Department shall not design, prepare or issue the commemorative license plates unless it receives at least 250 applications for the issuance of those plates.

2. If the Department receives at least 250 applications for the issuance of the commemorative license plates, the Department shall issue those plates for a passenger car or light commercial vehicle upon application by a person who is entitled to license plates pursuant to NRS 482.265 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with the commemorative license plates if that person pays the fees for the personalized prestige license plates in addition to the fees for the commemorative license plates pursuant to subsections 3 and 4.

3. The fee for the commemorative license plates is $35, in addition to all other applicable registration and license fees and governmental services taxes. The license plates are renewable upon the payment of $10.

4. In addition to all other applicable registration and license fees and governmental services taxes and the fee prescribed in subsection 3, a person who requests a set of the commemorative license plates must pay for the initial issuance of the plates an additional fee of $25 and for each renewal of the plates an additional fee of $20, to be distributed pursuant to subsection 5.

5. The Department shall deposit the fees collected pursuant to subsection 4 with the State Treasurer for credit to the State General Fund. The State Treasurer shall, on a quarterly basis, distribute the fees to the City Treasurer of the City of Las Vegas to be used to pay for projects relating to the commemoration of the history of the City of Las Vegas, including, without limitation, historical markers, tours of historic sites and improvements to or restoration of historic buildings or structures.

6. If, during a registration year, the holder of the commemorative license plates disposes of the vehicle to which the commemorative license plates are affixed, the holder shall:

(a) Retain the commemorative license plates and affix them to another vehicle that meets the requirements of this section if the ~~[transfer and registration fees are paid as set forth in this chapter; or]~~ ***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 commemorative license plates from the vehicle, return them to the Department.

~~[Sec. 91.]~~ ***Sec. 137.*** NRS 482.3792 is hereby amended to read as follows:

482.3792 1. Except as otherwise provided in this subsection, the Department ***of Motor Vehicles*** shall **, in cooperation with the Nevada Arts Council** ~~[,]~~ ***of the Department of Tourism and Cultural Affairs,*** design, prepare and issue license plates for the support of the education of children in the arts, using any colors and designs which the Department ***of Motor Vehicles*** deems appropriate. The Department ***of Motor Vehicles*** shall not design, prepare or issue the license plates unless it receives at least 250 applications for the issuance of those plates.

2. The Department ***of Motor Vehicles*** may issue license plates for the support of the education of children in the arts for a passenger car or light commercial vehicle upon application by a person who is entitled to license plates pursuant to NRS 482.265 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with license plates for the support of the education of children in the arts if that person pays the fee for the personalized prestige license plates in addition to the fees for the license plates for the support of the education of children in the arts pursuant to subsections 3 and 4.

3. The fee for license plates for the support of the education of children in the arts is $35, in addition to all other applicable registration and license fees and governmental services taxes. The license plates are renewable upon the payment of $10.

4. In addition to all fees for the license, registration and governmental services taxes, a person who requests a set of license plates for the support of the education of children in the arts must pay for the initial issuance of the plates an additional fee of $15 and for each renewal of the plates an additional fee of $10 to finance programs which promote the education of children in the arts.

5. **The** ~~*[Except as otherwise provided in NRS 482.38279, the]*~~ Department ***of Motor Vehicles*** shall deposit the fees collected pursuant to subsection 4 with the State Treasurer for credit to the **Account for License Plates for the Support of the Education of Children in the Arts created pursuant to NRS 233C.094.** ~~*[State General Fund. The State Treasurer shall, on a quarterly basis, distribute the fees deposited pursuant to this subsection to VSA arts of Nevada or its successor for its programs and activities in support of the education of children in the arts.]*~~

6. If, during a registration year, the holder of license plates issued pursuant to the provisions of this section disposes of the vehicle to which the plates are affixed, the holder ~~[may retain]~~ ***shall:***

(a) Retain the plates and ~~[~~:

~~(a) Affix]~~ ***affix*** them to another vehicle which meets the requirements of this section if the ~~[transfer and registration fees are paid as set out in this chapter; or]~~ ***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 ~~[.]~~ ***of Motor Vehicles.***

~~[Sec. 92.]~~ ***Sec. 138.*** NRS 561.235 is hereby amended to read as follows:

561.235 1. The Department shall maintain a principal office and may maintain district or branch offices throughout the State if they are necessary for the efficient operation of the Department.

2. The Director shall select the location of those offices and may enter into such leases or other agreements as may be necessary to establish them. The leases or agreements must be executed in cooperation with the Buildings and Grounds ~~[Division]~~ ***Section of the State Public Works Division*** of the Department of Administration and in accordance with the provisions of NRS 331.110.

~~[Sec. 93.]~~ ***Sec. 139.*** Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. 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.

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 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 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 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.

~~[Sec. 94.]~~ ***Sec. 140.*** NRS ~~[233C.010, 233C.011, 233C.013, 233C.015, 233C.017, 233C.019, 233C.020, 233C.025, 233C.030, 233C.040, 233C.050, 233C.060, 233C.070, 233C.090, 233C.091, 233C.092, 233C.094, 233C.095, 233C.096, 233C.097,]~~ **231.280, 231.350,** 233C.100, ~~[233C.110, 233C.200, 233C.210, 233C.220, 233C.225, 233C.230,]~~ 233F.058, 242.041, 331.040, 331.095, **331.103,** 331.104, 331.105, 341.015, 341.149, ~~[353.3465,]~~ 378.008,

378.0086 [,] **and** 378.0089 [, 381.001, 381.002, 381.003, 381.0031, 381.0033, 381.0035, 381.0036, 381.0037, 381.004, 381.0045, 381.005, 381.006, 381.0061, 381.0062, 381.0063, 381.0064, 381.0075, 381.008, 381.009, 381.195, 381.197, 381.199, 381.201, 381.203, 381.205, 381.207, 381.209, 381.211, 381.213, 381.215, 381.217, 381.219, 381.221, 381.223, 381.225, 381.227, 381.245, 381.255, 383.011, 383.021, 383.031, 383.041, 383.075, 383.081, 383.085, 383.091, 383.101, 383.111, 383.121, 383.125, 383.150, 383.160, 383.170, 383.180, 383.190, 383.400, 383.405, 383.410, 383.415, 383.420, 383.425, 383.430, 383.435 and 383.440] are hereby repealed.

[Sec. 95.] ***Sec. 141.*** [1. Any balance remaining in the Account for License Plates for the Support of the Education of Children in the Arts created by NRS 233C.094 that has not been committed for expenditure before July 1, 2011, must be remitted to VSA arts of Nevada or its successor.

2. Any balance remaining in the Nevada Cultural Fund created by NRS 233C.095 that has not been committed for expenditure before July 1, 2011, must be reverted to the State General Fund.

3.] Any balance remaining in the Account for Local Cultural Activities created by NRS 233C.100 that has not been committed for expenditure before [July] **October** 1, 2011, must be reverted to the State General Fund.

[4. The proceeds of any bonds issued pursuant to NRS 233C.225 that have not been committed for expenditure before July 1, 2011, must be transferred to the State General Fund.

5. Any balance remaining in the Fund for the Preservation and Promotion of Cultural Resources created by NRS 233C.230 that has not been committed for expenditure before July 1, 2011, must be reverted to the State General Fund.

6. Any balance remaining in the Division of Museums and History Dedicated Trust Fund established pursuant to NRS 381.0031 that has not been committed for expenditure before July 1, 2011, must be reverted to the State General Fund.

7. Any balance remaining in the Fund for the Support of the Division of Museums and History of the Department of Cultural Affairs created by NRS 381.0064 that has not been committed for expenditure before July 1, 2011, must be reverted to the State General Fund.]

Sec. 141.5. **For Fiscal Years 2011-2012 and 2012-2013, the Administrator of the Division of Tourism of the Department of Tourism and Cultural Affairs, appointed pursuant to section 8.5 of this act, is entitled to receive an approximate annual salary of not more than $95,453.**

Sec. 142. **There is hereby appropriated from the State General Fund to the Department of Cultural Affairs the sum of $150,806 for the purpose of offsetting lower than projected admission revenue related to reductions from the State General Fund made by section 6 of chapter 10, Statutes of Nevada 2010, 26th Special Session, at page 68. Money**

appropriated pursuant to this section is in addition to, and must not be used to replace or supplant, any money that was appropriated by section 19 of chapter 388, Statutes of Nevada 2009, at page 2108.

Sec. 143. **There is hereby appropriated from the State General Fund to the Department of Cultural Affairs the sum of $36,848 for the purpose of the retirements of employees of the Division of Museums and History of the Department. Money appropriated pursuant to this section is in addition to, and must not be used to replace or supplant, any money that was appropriated by section 19 of chapter 388, Statutes of Nevada 2009, at page 2108.**

Sec. 143.5. **Notwithstanding any other provision of law to the contrary, a person who has been appointed to or is otherwise incumbent in one of the following positions as of October 1, 2011, is in the classified service of the State and must remain in the classified service of the State until he or she vacates the relevant position:**

1. The heads of the units and offices of the Division of Enterprise Information Technology Services of the Department of Administration.

2. The Administrator of the Nevada Arts Council of the Department of Tourism and Cultural Affairs.

3. The Administrator of the Division of Museums and History of the Department of Tourism and Cultural Affairs.

4. The Administrator of the Office of Historic Preservation of the State Department of Conservation and Natural Resources.

Sec. 144. **1. Any administrative regulations adopted by an officer or an agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations has been transferred.**

2. Any contracts or other agreements entered into 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 are binding upon the officer or agency to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. 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. 145. **1. If the name of a fund or account is changed pursuant to the provisions of this act, the State Controller shall change the**

designation of the name of the fund or account without making any transfer of the money in the fund or account. The assets and liabilities of a such a fund or account are unaffected by the change of the name.

2. The assets and liabilities of any fund or account transferred from the Department of Cultural Affairs to the Department of Tourism and Cultural Affairs are unaffected by the transfer.

Sec. 146. **The amendatory provisions of this act do not affect the current term of appointment of any person who, on October 1, 2011, is a member of the Commission on Tourism, the Board of the Nevada Arts Council of the Department of Cultural Affairs, the Commission for Cultural Affairs of the Department of Cultural Affairs, the Board of Museums and History of the Department of Cultural Affairs or the Division of Museums and History of the Department of Cultural Affairs.**

~~[Sec. 96.]~~ ***Sec. 147.*** The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change or remove, as applicable, any references to an officer, agency or other entity:

(a) 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.

(b) Whose responsibilities are eliminated pursuant to the provisions of this act.

2. In preparing supplements to the Nevada Administrative Code, appropriately change or remove, as applicable, any references to an officer, agency or other entity:

(a) 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.

(b) Whose responsibilities are eliminated pursuant to the provisions of this act.

~~[Sec. 97.]~~ ***Sec. 148.*** **1.** This **section and sections 143 and 144 of this** act ~~[becomes]~~ **become** effective ~~[on July]~~ **upon passage and approval.**

2. Sections 8.5 and 142.5 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, including, without limitation, recruitment, selecting appointees, making appointments, and moving offices and equipment; and

(b) On July 1, 2011, for all other purposes.

3. Sections 1 to 8, inclusive, 9 to 142, inclusive, and 144.5 to 148, 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, including, without limitation, recruitment,

selecting appointees, making appointments, and moving offices and equipment; and

(b) On October 1, 2011 ~~[.]~~ **, for all other purposes.**

LEADLINES OF REPEALED SECTIONS

~~[233C.010 Definitions.~~

~~233C.011 "Administrator" defined.~~

~~233C.013 "Board" defined.~~

~~233C.015 "Commission" defined.~~

~~233C.017 "Department" defined.~~

~~233C.019 "Division" defined.~~

~~233C.020 Legislative declaration.~~

~~233C.025 Creation; cooperation with state agencies.~~

~~233C.030 Board: Creation; number of members.~~

~~233C.040 Board members: Appointment; qualifications; term; removal.~~

~~233C.050 Board members: Salary; per diem allowance and travel expenses.~~

~~233C.060 Board meetings: Frequency; quorum; one vote per member.~~

~~233C.070 Board officers; terms.~~

~~233C.090 Board: Duties; regulations.~~

~~233C.091 Administrator: Selection; qualifications; duties and powers.~~

~~233C.092 Periodic examination of and report on physical condition of works of art acquired for inclusion in public works.~~

~~233C.094 Creation; use of money in Account.~~

~~233C.095 Creation; purpose; investment; acceptance of gifts, grants and donations for deposit in Fund; transfer of money from Fund to meet obligations of State.~~

~~233C.096 Administration and expenditure of money in Fund.~~

~~233C.097 Regulations; report to Legislature.]~~

231.280 Powers and duties.

231.350 Committee: Creation; composition; vacancies; removal; compensation of members; meetings; administrative support.

233C.100 Creation; administration.

~~[233C.110 Expenditure of money; employment of performers or technicians.~~

~~233C.200 Creation; members; meetings; quorum; compensation and reimbursement; administrative services.~~

~~233C.210 Plan for preservation and promotion of Nevada's cultural resources.~~

~~233C.220 Program for Awarding Financial Assistance.~~

~~233C.225 Determination of annual amount of financial assistance to be granted by Commission; notice to State Board of Examiners and State Board of Finance; issuance of bonds.~~

~~233C.230 Fund for Preservation and Promotion of Cultural Resources.]~~

233F.058 "Director" defined.

242.041 "Director" defined.

331.040 Qualifications of Chief.

331.095 Program to track use of energy in buildings owned by State or occupied by state agency.

331.103 Department of Administration's Communications Fund: Creation; claims.

331.104 Department of Administration's Communications Fund: Revenue.

331.105 Central Mailing Room: Establishment; maintenance.

341.015 "Manager" defined.

341.149 Funding required for operation and maintenance of capital improvement.

~~[353.3465 Temporary advance from State General Fund for authorized expenses of Department of Cultural Affairs.]~~

378.008 Creation; composition.

378.0086 Director: Appointment and qualifications.

378.0089 Director: Powers and duties.

~~[381.001 Definitions.~~

~~381.002 Creation; qualifications of members; Chair and Vice Chair; powers and duties; regulations.~~

~~381.003 Establishment of shops for sale of gifts and souvenirs.~~

~~381.0031 Private money; Dedicated Trust Fund.~~

~~381.0033 Budgeting, expenditure and accounting of money in Dedicated Trust Fund.~~

~~381.0035 Private money exempt from statutory requirements governing expenditure of public money; independent contractors.~~

~~381.0036 Legislative appropriations.~~

~~381.0037 Petty cash accounts; change accounts.~~

~~381.004 Creation; composition; general duties of institutions.~~

~~381.0045 Establishment of categories of and fees for membership in institutions; fees for admission and train rides; policies and charges for use of property.~~

~~381.005 Administrator: Appointment; qualifications; classification; employment of staff.~~

~~381.006 Administrator: Powers and duties.~~

~~381.0061 Administrator: Adoption of regulations.~~

~~381.0062 Museum directors: Appointment and establishment of powers and duties by Administrator; classification; duty to exercise and carry out assigned powers and duties.~~

~~381.0063 Museum directors: Powers and duties.~~

~~381.0064 Fund for Support of Division of Museums and History: Creation; use of interest and income; transfer of money to State General Fund; annual submission of itemized statement.~~

~~381.0075 Acceptance of gifts.~~

~~381.008 Sale of duplicates, surplus and inappropriate items; use of proceeds.~~

~~381.009 Acquisition of abandoned property held by institution.~~

~~381.195 Definitions.~~

~~381.197 Permit required to investigate, explore or excavate historic or prehistoric site; applicability of penalties.~~

~~381.199 Applicant for permit required to secure state and federal permits.~~

~~381.201 Museum Director may designate state agency as agent to issue permits; agency may adopt regulations.~~

~~381.203 Qualifications of applicant for permit; contents of application; regulations.~~

~~381.205 Notice to certain officers when permit granted.~~

~~381.207 Percentage of articles, implements and materials found or discovered by certain holders of permits to be given to state institutions and political subdivisions.~~

~~381.209 Permit: Limitations and conditions.~~

~~381.211 Permit: Renewal.~~

~~381.213 Permit: Conditions for voiding.~~

~~381.215 Report of holder of permit to Museum Director.~~

~~381.217 Collections of petrified wood authorized; limitations.~~

~~381.219 Collection of certain minerals and artifacts and photography not prohibited.~~

~~381.221 Enforcement by Division of State Parks, sheriffs and other peace officers.~~

~~381.223 Seizure and forfeiture of object of antiquity taken without permit.~~

~~381.225 Acts of vandalism unlawful; penalty.~~

~~381.227 Penalty.~~

~~381.245 Preservation of old and obsolete property and public records from Division of State Library and Archives.~~

~~381.255 State publications to be donated for deposit in Society's collections.~~

~~383.011 Definitions.~~

~~383.021 Creation of Office of Historic Preservation; duties; inclusion of Comstock Historic District Commission within Office.~~

~~383.031 Administrator: Qualifications.~~

~~383.041 Administrator: Duties; employment of personnel.~~

~~383.075 Administrator: Establishment of stewardship program; selection and training of volunteers; powers of program; acceptance of gifts and grants.~~

~~383.081 Preparation and contents of plan for statewide historic preservation; federal financial assistance.~~

~~383.085 State Register of Historic Places.~~

~~383.091 Program for historical markers.~~

~~383.101 Grants, gifts and donations; payment for services rendered.~~

~~383.111 Contracts: Historic preservation and archeological activities; expenses for overhead.~~

~~383.121 Intergovernmental cooperation required.~~

~~383.125 Programs by certain nonprofit organizations to raise money to benefit historic places; prohibitions; regulations.~~

~~383.150 Definitions.~~

~~383.160 Duties of Office of Historic Preservation.~~

~~383.170 Procedure upon discovery of Indian burial site; permissible excavation.~~

~~383.180 Prohibited acts; penalties; exceptions.~~

~~383.190 Civil remedy.~~

~~383.400 Definitions.~~

~~383.405 "Historic site" defined.~~

~~383.410 "Political subdivision" defined.~~

~~383.415 "Prehistoric site" defined.~~

~~383.420 "State agency" defined.~~

~~383.425 "State land" defined.~~

~~383.430 Office of Historic Preservation authorized to enter into agreement with state agency or political subdivision regarding acquisition of land from Federal Government; requirements of agreement; submission of information to Office required for changes to use of land or new project on land.~~

~~383.435 Prohibited acts; penalties; exceptions; civil remedy.~~

~~383.440 Regulations.]~~

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

In the Executive Budget, the Governor recommends dissolving various departments and reorganizing the remaining components under current State agencies. Senate Bill No. 427, as amended, makes the statutory changes necessary to implement the reorganization. The bill repeals sections of NRS 378 to provide for the dissolution of the Department of Cultural Affairs and the reorganization of the former Department's four divisions. The State Historic Preservation Office would be placed under the Department of Conservation and Natural Resources and the Division of State Library and Archives would be placed under the Department of Administration.

In addition to transferring the Nevada State Library and Archives Division to the Department of Administration, Senate Bill No. 427, as amended, also changes current State departments to divisions and merges the new divisions under the Department of Administration. This bill converts the Department of Personnel into the new Division of Human Resource Management; and reclassifies several positions within that function.

The bill provides for the Director of Administration to appoint an Administrator for each of the divisions and adds each division to the Department of Administration's Operating Fund for Administrative Services, an internal service fund.

This bill revises NRS 223 to provide that the Governor may appoint a Chief Information Officer of the State and designate the Administrator of the Division of Enterprise Information Technology Services as the State Chief Information Officer.

The bill restricts the powers and duties of the State Public Works Board, such that the Board will only be empowered to make recommendations concerning the priority of construction for the State's Capital Improvement Program, adopt regulations, and preside over certain appeals. Various other powers and duties of the Board are reassigned.

Senate Bill No. 427 provides for the creation of a Division of Tourism Administrator position appointed by the Director of the Department and responsible for the administration of the Division of Tourism.

The bill contains two supplemental appropriations to the Department of Cultural Affairs not provided for in the Executive Budget to offset lower than projected admission revenue from the State museums and the Division of Museums and History.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 428.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 935.

"SUMMARY—Makes an appropriation to the State Gaming Control Board to replace computer and technology hardware. (BDR S-1243)"

"AN ACT making an appropriation to the State Gaming Control Board to replace computer and technology hardware; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the State Gaming Control Board the sum of ~~[$1,256,104]~~ **$719,957** for the replacement of computer and technology hardware to ensure continuity in operations and continued security.

Sec. 2. Any remaining balance of the appropriation made by section 1 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. 3. This act becomes effective upon passage and approval.

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. 935 to Senate Bill No. 428 reduces the appropriation from $1.2 million to $719,000 for the equipment needed for the Gaming Control Board.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 473.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 936.

"SUMMARY—Revises provisions governing consumer affairs. (BDR 18-1190)"

"AN ACT relating to the reorganization of State Government; ~~[eliminating the Office of Ombudsman of Consumer Affairs for Minorities; making permanent]~~ **continuing** the transfer of the powers and duties of the Consumer Affairs Division of the Department of Business and Industry and the Commissioner of Consumer Affairs to the Office of the Attorney General; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[The Office of Ombudsman of Consumer Affairs for Minorities in the Office of the Director of the Department of Business and Industry was made a permanent position by the 75th Session of the Nevada Legislature. (Chapter 335 of Statutes of Nevada 2009, p. 1502) This bill eliminates the Office of Ombudsman of Consumer Affairs for Minorities.]~~

The 75th Session of the Nevada Legislature temporarily eliminated the Consumer Affairs Division of the Department **of Business and Industry** and the Commissioner of Consumer Affairs for the 2009-2011 biennium and transferred the powers and duties of the Division and the Commissioner to the Office of the Attorney General. (Chapter 475, Statutes of Nevada 2009, pp. 2695-2733) This bill ~~[makes permanent]~~ **continues for the 2011-2013 biennium the temporary elimination of the Division and the Commissioner and** the transfer of the powers and duties of the Division and the Commissioner to the Office of the Attorney General.

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

Section 1. ~~[NRS 232.505 is hereby amended to read as follows:~~

~~232.505 As used in NRS 232.505 to [232.845,] *232.840,* inclusive, unless the context requires otherwise:~~

~~1. "Department" means the Department of Business and Industry.~~

~~2. "Director" means the Director of the Department.]~~ **(Deleted by amendment.)**

Sec. 2. Section 80 of chapter 475, Statutes of Nevada 2009, at page 2733, is hereby amended to read as follows:

Sec. 80. **1.** This section and sections 1 to 35, inclusive, 36 to 57, inclusive, and 58 to 79, inclusive, of this act become effective on July 1, 2009.

2. The amendatory provisions of sections 3, 4, 36 to 51, inclusive, 57, 58 to 75, inclusive, and subsection 2 of section 77 of this act expire by limitation on June 30, ~~[2011.]~~ *2013.*

3. Sections 35.1 to 35.95, inclusive, and 57.5 of this act become effective on July 1, ~~[2011.]~~ *2013.*

Sec. 3. ~~[1. NRS 232.845 is hereby repealed.~~

~~2. Sections 35.1, 35.2, 35.3, 35.4, 35.5, 35.6, 35.7, 35.8, 35.9, 35.95 and 57.5 of chapter 475, Statutes of Nevada 2009, at pages 2709-12 and 2721, are hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 4. 1. This section and sections 2 and 3 of this act become effective upon passage and approval.

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

~~TEXT OF REPEALED SECTION OF NRS AND REPEALED SECTIONS OF STATUTES OF NEVADA~~

~~232.845 Creation; duties of Ombudsman; appointment and classification of Ombudsman.~~

~~1. The Office of Ombudsman of Consumer Affairs for Minorities is hereby created within the Office of the Director. The Ombudsman shall:~~

~~(a) Provide for continued educational, outreach and service programs for minority groups pertaining to consumer fraud; and~~

~~(b) Assist the Nevada Commission on Minority Affairs created by NRS 232.852.~~

~~2. The Director shall appoint the Ombudsman of Consumer Affairs for Minorities.~~

~~3. The Ombudsman of Consumer Affairs for Minorities is:~~

~~(a) In the unclassified service of the State.~~

~~(b) Directly responsible to the Director.~~

~~Section 35.1 of chapter 475, Statutes of Nevada 2009, at page 2709:~~

~~Sec. 35.1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 35.2 to 35.95, inclusive, of this act.~~

~~Section 35.2 of chapter 475, Statutes of Nevada 2009, at page 2709:~~

~~Sec. 35.2. 1. Each organization for buying goods or services at a discount regulated by the provisions of this section, NRS 598.840 to 598.930, inclusive, and sections 35.3, 35.4 and 35.5 of this act shall apply for registration on the form prescribed by the Division.~~

~~2. At the time of application for registration, the applicant must pay to the Division an administrative fee of $25 and deposit the required security with the Division.~~

~~3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:~~

~~(a) Is not transferable or assignable; and~~

~~(b) Expires 1 year after it is issued.~~

~~4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.~~

~~Section 35.3 of chapter 475, Statutes of Nevada 2009, at page 2709:~~

~~Sec. 35.3. 1. Each registrant shall deposit with the Division:~~

~~(a) A bond executed by a corporate surety approved by the Commissioner and licensed to do business in this State;~~

~~(b) An irrevocable letter of credit for which the registrant is the obligor, issued by a bank whose deposits are federally insured; or~~

~~(c) A certificate of deposit in a financial institution which is doing business in this State and which is federally insured or insured by a private insurer approved pursuant to NRS 678.755. The certificate of deposit may be withdrawn only on the order of the Commissioner, except that the interest may accrue to the registrant.~~

~~2. The term of the bond, letter of credit or certificate of deposit, or any renewal thereof, must be not less than 1 year.~~

~~3. If the registrant deposits a bond, the registrant shall keep accurate records of the bond and the payments made on the premium. The records must be open to inspection by the Division during business hours. The registrant shall notify the Division not later than 30 days before the date of expiration of the bond and provide written proof of the renewal of the bond to the Division.~~

~~4. The Commissioner may reject any bond, letter of credit or certificate of deposit which fails to conform to the requirements of this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act.~~

~~5. A registrant may change the form of security which he has deposited with the Division. If the registrant changes the form of the security, the Commissioner may retain for not more than 1 year any portion of the security previously deposited by the registrant as security for claims arising during the time the previous security was in effect.~~

~~6. If the amount of the deposited security falls below the amount required by this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act for that security, the registrant shall be deemed not to be registered as required by section 35.2 of this act for the purposes of this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act.~~

~~Section 35.4 of chapter 475, Statutes of Nevada 2009, at page 2710:~~

~~Sec. 35.4. 1. The security required to be deposited by a registrant pursuant to section 35.3 of this act must be held in trust for consumers injured by the bankruptcy of the registrant or the registrant's breach of any agreement entered into in his capacity as a registrant.~~

~~2. A consumer so injured may bring and maintain an action in any court of competent jurisdiction to recover against the security.~~

~~3. The Division may bring an action for interpleader against all claimants upon the security. If the Division brings such an action, the Division shall publish notice of the action at least once each week for 2 weeks in a newspaper of general circulation in the county in which the organization has its principal place of business. The Division may deduct its costs of the action, including the costs of the publication of the notice, from the amount of the security. All claims against the security have equal priority. If the security is insufficient to pay all the claims in full, the claims must be paid pro rata. If the registrant has posted a bond with the Division, the surety is then relieved of all liability under the bond.~~

~~4. The Division may, in lieu of bringing an action for interpleader pursuant to subsection 3, conduct a hearing to determine the distribution of the security to claimants. The Division shall adopt regulations to provide for adequate notice and the conduct of the hearing. If the registrant has posted a bond with the Division, distribution pursuant to this subsection relieves the surety of all liability under the bond.~~

~~5. If the security is sufficient to pay all claims against the security in full, the Division may deduct from the amount of the security, the cost of any investigation or hearing it conducted to determine the distribution of the security.~~

~~Section 35.5 of chapter 475, Statutes of Nevada 2009, at page 2710:~~

~~Sec. 35.5. 1. If no claims have been filed against the security deposited with the Division pursuant to section 35.3 of this act within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the Commissioner shall release the security to the registrant and shall not audit any claims filed against the security thereafter by consumers.~~

~~2. If one or more claims have been filed against the security within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the proceeds must not be released to the registrant or distributed to any consumer earlier than 1 year after the registrant ceases to operate or his registration expires, whichever occurs later.~~

~~3. For the purposes of this section, the Commissioner shall determine the date on which a registrant ceases to operate.~~

~~Section 35.6 of chapter 475, Statutes of Nevada 2009, at page 2711:~~

~~Sec. 35.6. "Registrant" means a dance studio or a health club which is required to register and post security with the Division pursuant to the provisions of this section, NRS 598.940 to 598.966, inclusive, and sections 35.7 to 35.95, inclusive, of this act.~~

~~Section 35.7 of chapter 475, Statutes of Nevada 2009, at page 2711:~~

~~Sec. 35.7. 1. Each dance studio and health club regulated by the provisions of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.8, 35.9 and 35.95 of this act shall apply for registration on the form prescribed by the Division.~~

~~2. At the time of application for registration, the applicant must pay to the Division an administrative fee of $25 and deposit the required security with the Division.~~

~~3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:~~

~~(a) Is not transferable or assignable; and~~

~~(b) Expires 1 year after it is issued.~~

~~4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.~~

~~Section 35.8 of chapter 475, Statutes of Nevada 2009, at page 2711:~~

~~Sec. 35.8. 1. Each registrant shall deposit with the Division:~~

~~(a) A bond executed by a corporate surety approved by the Commissioner and licensed to do business in this State;~~

~~(b) An irrevocable letter of credit for which the registrant is the obligor, issued by a bank whose deposits are federally insured; or~~

~~(c) A certificate of deposit in a financial institution which is doing business in this State and which is federally insured or insured by a private insurer approved pursuant to NRS 678.755. The certificate of deposit may be withdrawn only on the order of the Commissioner, except that the interest may accrue to the registrant.~~

~~2. The term of the bond, letter of credit or certificate of deposit, or any renewal thereof, must be not less than 1 year.~~

~~3. If the registrant deposits a bond, the registrant shall keep accurate records of the bond and the payments made on the premium. The records must be open to inspection by the Division during business hours. The registrant shall notify the Division not later than 30 days before the date of expiration of the bond and provide written proof of the renewal of the bond to the Division.~~

~~4. The Commissioner may reject any bond, letter of credit or certificate of deposit which fails to conform to the requirements of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.7, 35.9 and 35.95 of this act.~~

~~5. A registrant may change the form of security which he has deposited with the Division. If the registrant changes the form of the security, the Commissioner may retain for not more than 1 year any portion of the security previously deposited by the registrant as security for claims arising during the time the previous security was in effect.~~

~~6. If the amount of the deposited security falls below the amount required by this chapter for that security, the registrant shall be deemed not to be registered as required by section 35.7 of this act for the purposes of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.7, 35.9 and 35.95 of this act.~~

~~Section 35.9 of chapter 475, Statutes of Nevada 2009, at page 2712:~~

~~Sec. 35.9. 1. The security required to be deposited by a registrant pursuant to section 35.8 of this act must be held in trust for consumers injured by the bankruptcy of the registrant or the registrant's breach of any agreement entered into in his capacity as a registrant.~~

~~2. A consumer so injured may bring and maintain an action in any court of competent jurisdiction to recover against the security.~~

~~3. The Division may bring an action for interpleader against all claimants upon the security. If the Division brings such an action, the Division shall publish notice of the action at least once each week for 2 weeks in a newspaper of general circulation in the county in which the organization has its principal place of business. The Division may deduct its costs of the~~

~~action, including the costs of the publication of the notice, from the amount of the security. All claims against the security have equal priority. If the security is insufficient to pay all the claims in full, the claims must be paid pro rata. If the registrant has posted a bond with the Division, the surety is then relieved of all liability under the bond.~~

~~4. The Division may, in lieu of bringing an action for interpleader pursuant to subsection 3, conduct a hearing to determine the distribution of the security to claimants. The Division shall adopt regulations to provide for adequate notice and the conduct of the hearing. If the registrant has posted a bond with the Division, distribution pursuant to this subsection relieves the surety of all liability under the bond.~~

~~5. If the security is sufficient to pay all claims against the security in full, the Division may deduct from the amount of the security, the cost of any investigation or hearing it conducted to determine the distribution of the security.~~

~~Section 35.95 of chapter 475, Statutes of Nevada 2009, at page 2712:~~

~~Sec. 35.95. 1. If no claims have been filed against the security deposited with the Division pursuant to section 35.8 of this act within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the Commissioner shall release the security to the registrant and shall not audit any claims filed against the security thereafter by consumers.~~

~~2. If one or more claims have been filed against the security within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the proceeds must not be released to the registrant or distributed to any consumer earlier than 1 year after the registrant ceases to operate or his registration expires, whichever occurs later.~~

~~3. For the purposes of this section, the Commissioner shall determine the date on which a registrant ceases to operate.~~

~~Section 57.5 of chapter 475, Statutes of Nevada 2009, at pages 2721-22:~~

~~Sec. 57.5. NRS 598.840 is hereby amended to read as follows:~~

~~598.840 As used in NRS 598.840 to 598.930, inclusive, and sections 35.2 to 35.5, inclusive, of this act, unless the context otherwise requires:~~

~~1. "Affiliate organization" means an organization for buying goods or services at a discount that:~~

~~(a) Is a subsidiary of a parent business entity; or~~

~~(b) Operates under a franchise granted by a parent business entity.~~

~~2. "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Nevada Day, Veterans' Day, Thanksgiving Day and Christmas Day.~~

~~3. "Buyer" means a person who purchases by contract a membership in an organization for buying goods or services at a discount.~~

~~4. "Commissioner" means the Commissioner of the Consumer Affairs Division.~~

~~5. "Division" means the Consumer Affairs Division of the Department of Business and Industry.~~

~~6. "Franchise" has the meaning ascribed to it in 16 C.F.R. § 436.2, as amended or substituted in revision by the Federal Trade Commission.~~

~~[5.] 7. "Organization for buying goods or services at a discount" or "organization" means a person who, for a consideration, provides or claims to provide a buyer with the ability to purchase goods or services at a price which is represented to be lower than the price generally charged in the area. The term includes, without limitation, an affiliate organization.~~

~~[6.] 8. "Parent business entity" or "parent" means any business entity that, directly or indirectly, has owned, operated, controlled or granted franchises to, in any combination thereof, at least 15 organizations or affiliate organizations for a consecutive period of 5 years or more.~~

~~[7.] 9. "Registrant" means an organization for buying goods or services at a discount which is required to register and post security with the Division pursuant to the provisions of NRS 598.840 to 598.930, inclusive, and sections 35.2 to 35.5, inclusive, of this act.~~

~~10. "Subsidiary" means an organization for buying goods or services at a discount that is owned, operated or controlled, either directly or indirectly or in whole or in part, by a parent business entity.]~~

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. 473, as amended, retains the Office of the Ombudsman of Consumer Affairs for Minorities within the Office of the Director of the Department of Business and Industry. The legislation, as amended, continues the temporary elimination of the Consumer Affairs Division of the Department of Business and Industry for the 2011-13 biennium, and the transfer of those duties to the Office of the Attorney General, as approved by the 2009 75th Legislature.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 579.

Bill read third time.

Remarks by Senators Horsford, Schneider and Roberson.

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

SENATOR HORSFORD:

Thank you, Mr. President. I think it is important to have some discussion on Assembly Bill No. 579. I invite my colleagues who are going to vote "no" to offer a final argument to the public as to why they are going to do so.

Regarding our State's budget, the truth is that the Supreme Court's decision made the already worst-case scenario a disaster. I want to thank my colleagues and the Governor who understand that reality. I want to thank them for coming to the table to find the middle ground and the balanced solution we have talked about from the beginning of the Session. No one got exactly

what he or she wanted. The sobering reality is that this budget saves what would have been a sinking ship. It funds education responsibly which is a victory for our State, but, at the same time, it would be a gross understatement to say that there is room for improvement.

Mr. President, I would like to commend the Governor. I did not know how he would respond or how he would react in the hours after that Supreme Court ruling. Initially, when we first convened I did not know where we would end up. But, despite the outcome, I am proud that the Governor took the helm of the situation, did not ignore the facts, and he did what a good Governor should do. He brought us together to resolve the State's problems in a responsible way, first, by helping us to understand both the short and long-term implications of that decision and, ultimately, he brought us together to try to reach an agreement that was fair and balanced to each side.

It is always hard to explain to people that it could have been worse. Right now, that is the truth. People may say the Democrats won or lost or the Republicans won or lost, that liberals and conservatives may be mad at their party for not holding the line. To the Senator, from Washoe District No. 4, I, also, have gotten my share of hate e-mails. I have gotten e-mails that have asked why I did not hold the line, and why I was willing to say "yes" to the agreement that was reached. There is a point where the politics ceases to matter in a situation. For me, that point is at education. This budget is not perfect, but it will maintain adequate funding for our schools, funding that this Legislature has restored with agreement with the Governor. We will have the funds to improve our crumbling schools. We will have safe students and teachers in already overcrowded classrooms. We will restore per pupil spending to reasonable levels. I am happy to vote "yes" on this budget to keep my promise to the Nevada families that we will prevent deep cuts to education because we were willing to find that middle ground and a balanced solution.

I urge the body's adoption and approval of Assembly Bill No. 579. I encourage those members to explain to the public why they support it or why they do not.

SENATOR SCHNEIDER:

Let me begin by saying, I will reluctantly and sadly, be voting for this budget. I am doing so because I do not want to disrespect and dismiss the hard work done by the Majority Leader and the members of the Finance and Revenue Committees.

However, in my 20th and final year of legislative service, I would not be honest with you or myself if I did not express my profound disappointment that yet another legislative session will end without making any significant advances in our schools or meaningful investment in our children.

Let us be clear and honest. We passed reforms that may allow us to identify and deal with the small number of underperforming teachers in our schools, but cut the pay of every teacher in Nevada. Where is the balance in that? How does that encourage smart and willing young people to pursue a career in education? Clearly, it does not.

How does a reduction in per pupil spending reflect a commitment to improve our children's learning? How does a budget that cuts spending in schools and universities reflect an investment in the youth of our State? It does not.

In that very nicely staged press conference with the Governor the other day, we announced a deal, not a plan, not a blueprint, not a vision for our future, but a deal. A phrase used when bargaining with a used car salesman, I fear we bought a clunker.

In this case, the deal was based purely on an arbitrary number set by the political winds, the swirling political winds of the day.

For months we have listened to the pleas of the education community, to parents with autistic children, to Nevadans who have to raise their children and care for their elderly parents, to health care givers, neglected and abused children's case workers, first responders and others.

Despite the economic hardships of the past several years, industry leaders throughout Nevada have stepped forward to offer support in responding to our needs and to investing in our State's future. Representatives from banking, health care, gaming, mining and technology all testified repeatedly, urging us to pass fair, stable and broad based taxes, but, instead, we made a deal.

Again, I will vote for this deal because, in this political environment, I have been told this is the best we can do.

Really? The best we can do? How sad.

SENATOR ROBERSON:

Since the Majority Leader invited some of us who may be voting "no" on this to speak, I will speak briefly, now, but I will speak at length when we get to the revenue bill because all of these bills, Senate Bill Nos. 503, 504, 505 and Assembly Bill Nos. 579 and 580 are tied together. You cannot do these unless you have the money to pay for them. I do not want you to think for a second that there are not people in this room who feel just as passionately as you do about these issues. I appreciate the invitation to speak. I will be voting "no" on this. I will speak at length on these issues when we get to the revenue bill.

Roll call on Assembly Bill No. 579:

YEAS—15.

NAYS—Brower, Cegavske, Gustavson, Halseth, Roberson, Settelmeyer—6.

Assembly Bill No. 579 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 580.

Bill read third time.

Roll call on Assembly Bill No. 580:

YEAS—15.

NAYS—Brower, Cegavske, Gustavson, Halseth, Roberson, Settelmeyer—6.

Assembly Bill No. 580 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 137.

Bill read third time.

Roll call on Assembly Bill No. 137:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, McGinness, Rhoads, Roberson, Settelmeyer—9.

Assembly Bill No. 137 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 167.

Bill read third time.

Roll call on Assembly Bill No. 167:

YEAS—21.

NAYS—None.

Assembly Bill No. 167 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 171.

Bill read third time.

Remarks by Senator Denis.

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

Thank you, Mr. President. Assembly Bill No. 171 revises procedures to apply to establish a charter school and to amend the charter of an existing school.

We have two major charter school bills. This is the clean-up bill. It fixes things we have realized during the past few years needed fixing. I urge your support.

Roll call on Assembly Bill No. 171:
YEAS—21.
NAYS—None.

Assembly Bill No. 171 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 228.

Bill read third time.

Roll call on Assembly Bill No. 228:
YEAS—21.
NAYS—None.

Assembly Bill No. 228 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 245.

Bill read third time.

Roll call on Assembly Bill No. 245:
YEAS—21.
NAYS—None.

Assembly Bill No. 245 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 259.

Bill read third time.

The following amendment was proposed by Senator Wiener:

Amendment No. 950.

"SUMMARY—Requires a portion of certain existing fees to be used for certain programs for legal services. (BDR 2-817)"

"AN ACT relating to legal services; requiring a portion of certain existing fees to be used for certain programs for legal services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain fees to be charged and collected in civil actions and provides that such fees must only be used for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment, technology and, in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), for court appointed special advocate programs. (NRS 19.0302) **Section 1** of this bill authorizes such fees to also be used to support legal services for the indigent in counties whose

population is less than 100,000. **Section 1** also provides that, in counties whose population is 100,000 or more, (currently Clark and Washoe Counties) ~~[$20]~~ **$10** of each fee, collected on the commencement or transfer of any action in district court or upon the filing of any first paper by a defendant, must be submitted to a program for legal services for the operation of programs for the indigent.

Existing law also requires certain fees to be charged and collected at the time of recording a notice of default and election to sell. (NRS 107.080) **Section 2** of this bill provides that $5 of each fee, collected at the time of recording a notice of default and election to sell, must be submitted to a program for legal services for the operation of programs for the indigent.

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

Section 1. NRS 19.0302 is hereby amended to read as follows:

19.0302 1. Except as otherwise provided by specific statute and in addition to any other fee required by law, each clerk of the court or county clerk, as appropriate, shall charge and collect the following fees:

(a) On the commencement of any action or proceeding in the district court, other than those listed in paragraphs (c), (e) and (f), or on the transfer of any action or proceeding from a district court of another county, to be paid by the party commencing the action, proceeding or transfer $99

(b) On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by the defendant or defendants $99

(c) On the filing of a petition for letters testamentary, letters of administration or a guardianship, which fee does not include the court fee prescribed by NRS 19.020, to be paid by the petitioner:

(1) Where the stated value of the estate is $200,000 or more.... $352

(2) Where the stated value of the estate is more than $20,000 but less than $200,000 ..... $99

(3) Where the stated value of the estate is $20,000 or less, no fee may be charged or collected.

(d) On the filing of a motion for summary judgment or a joinder thereto $200

(e) On the commencement of an action defined as a business matter pursuant to the local rules of practice and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding thereto $1,359

(f) On the commencement of:

(1) An action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive; or

(2) Any other action defined as "complex" pursuant to the local rules of practice,

➥ and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding..... $349

(g) On the filing of a third-party complaint, to be paid by the filing party $135

(h) On the filing of a motion to certify or decertify a class, to be paid by the filing party..... $349

(i) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court $10

2. ~~[~~Fees~~]~~ ***Except as otherwise provided in subsection 4, fees*** collected pursuant to this section must be deposited into a special account administered by the county and maintained for the benefit of the court. The money in that account must be used only:

(a) To offset the costs for adding and maintaining new judicial departments, including, without limitation, the cost for additional staff;

(b) To reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature; and

(c) If any money remains in the account in a fiscal year after satisfying the purposes set forth in paragraphs (a) and (b), to:

(1) Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

(2) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

(3) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

(4) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court;

(5) Acquire advanced technology;

(6) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the district court or a regional justice center that includes the district court;

(7) In a county whose population is less than 100,000, support court appointed special advocate programs for children, at the discretion of the judges of the judicial district; ~~[~~or~~]~~

(8) ***In a county whose population is less than 100,000, support legal services to the indigent and to be used by the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent; or***

(9) Be carried forward to the next fiscal year.

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the clerk of the court or county clerk.

4. Each clerk of the court or county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer ~~[all]~~ ***:***

(a) In a county whose population is 100,000 or more, an amount equal to ~~[$20]~~ $10 of each fee collected pursuant to paragraphs (a) and (b) of subsection 1 during the preceding month. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the clerk of the court or county clerk pursuant to this paragraph.

(b) All remaining fees collected pursuant to this section during the preceding month.

Sec. 2. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085 and 107.086, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment;

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a

notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation; and

(d) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2; and

(b) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated; and

(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]~~ ***$45*** 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.

~~[~~ ***(c) A fee of $5 to be paid over to the county treasurer on or before the fifth day of each month for the preceding calendar month. The county recorder may direct that 1.5 percent of the fees collected by the county recorder pursuant to this paragraph be transferred into a special account for use by the office of the county recorder. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the county recorder pursuant to this paragraph.***

11. The fees collected pursuant to ~~[this subsection]~~ ***paragraphs (a) and (b) of subsection 10*** 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 ***for Foreclosure Mediation*** as prescribed pursuant to ~~[this]~~ subsection ~~[.]~~ ***10.*** 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.]~~ ***10.***

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.]~~ ***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.

Sec. 3. This act becomes effective on July 1, 2011.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 950 relates to a fee that would supplement the costs of legal services for the indigent. The amendment changes the amount of that fee from $20 to $10.

Amendment adopted.

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

Assembly Bill No. 307.
Bill read third time.
Roll call on Assembly Bill No. 307:
YEAS—21.
NAYS—None.

Assembly Bill No. 307 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 330.
Bill read third time.
Roll call on Assembly Bill No. 330:
YEAS—21.
NAYS—None.

Assembly Bill No. 330 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 402.
Bill read third time.
Roll call on Assembly Bill No. 402:
YEAS—21.
NAYS—None.

Assembly Bill No. 402 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 404.
Bill read third time.
Roll call on Assembly Bill No. 404:
YEAS—21.
NAYS—None.

Assembly Bill No. 404 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 486.
Bill read third time.
Roll call on Assembly Bill No. 486:
YEAS—21.
NAYS—None.

Assembly Bill No. 486 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 490.
Bill read third time.
Roll call on Assembly Bill No. 490:
YEAS—21.
NAYS—None.

Assembly Bill No. 490 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 491.
Bill read third time.
Roll call on Assembly Bill No. 491:
YEAS—21.
NAYS—None.

Assembly Bill No. 491 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 492.
Bill read third time.
Roll call on Assembly Bill No. 492:
YEAS—21.
NAYS—None.

Assembly Bill No. 492 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 493.
Bill read third time.
Roll call on Assembly Bill No. 493:
YEAS—21.
NAYS—None.

Assembly Bill No. 493 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 495.
Bill read third time.
Roll call on Assembly Bill No. 495:
YEAS—21.
NAYS—None.

Assembly Bill No. 495 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 497.
Bill read third time.
Roll call on Assembly Bill No. 497:
YEAS—21.
NAYS—None.

Assembly Bill No. 497 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 515.
Bill read third time.
Roll call on Assembly Bill No. 515:
YEAS—21.
NAYS—None.

Assembly Bill No. 515 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 546.
Bill read third time.
Roll call on Assembly Bill No. 546:
YEAS—13.
NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Roberson, Settelmeyer—8.

Assembly Bill No. 546 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 562.
Bill read third time.
Roll call on Assembly Bill No. 562:
YEAS—21.
NAYS—None.

Assembly Bill No. 562 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 563.
Bill read third time.
Roll call on Assembly Bill No. 563:
YEAS—21.
NAYS—None.

Assembly Bill No. 563 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 74.

Bill read third time.

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

Amendment No. 903.

"SUMMARY—Revises various provisions relating to the regulation of the insurance industry. (BDR 57-472)"

"AN ACT relating to insurance; requiring the Commissioner of Insurance to adopt regulations relating to electronic signatures, records and payments; revising provisions relating to the external review of adverse determinations of health carriers; clarifying the circumstances under which an actuary is not liable for damages with respect to the actuary's opinion; authorizing the electronic transmission of fingerprints with an application for a license; revising provisions relating to the licensing of adjusters; revising provisions relating to surplus lines insurance; revising provisions relating to the use of credit information; requiring that certain policies of group insurance be filed with and approved by the Commissioner; revising provisions relating to annuities, pure endowment contracts and policies of life insurance; revising provisions relating to evidence of insurance for motor vehicles; revising provisions relating to disciplinary action by the Commissioner; revising and clarifying provisions relating to employee leasing companies; **providing for coverage by the Nevada Life and Health Insurance Guarantee Association for certain unallocated annuity contracts owned by certain governmental retirement plans;** providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides a set of procedures for the external review of an adverse determination by a managed care organization. (NRS 695G.241-695G.310) **Sections 2, 3, 8, 9, 79-118.8, 123-127 and 129-131** of this bill amend the external review process to comply with the federal Patient Protection and Affordable Care Act (Public Law 111–148) and enact other related provisions necessary to comply with the minimum standards prescribed by federal law.

Existing law limits the liability of a qualified actuary for damages relating to the actuary's opinion regarding an insurer who offers life insurance. (NRS 681B.250) **Section 6** of this bill clarifies that this limitation of liability applies not only for life insurance but for any opinion an actuary issues pursuant to chapter 681B of NRS or any regulations adopted thereto.

Existing law requires the Commissioner of Insurance to adopt regulations governing the use of certain electronic methods relating to insurance. (NRS 679B.136, 685A.210) **Sections 1 and 29** of this bill expand the electronic methods that the Commissioner can allow the use of for insurance transactions. Additionally, **sections 10, 11, 20, 44-47 and 122** of this bill allow for the fingerprints required to be submitted with an application for a license pursuant to the Nevada Insurance Code to be submitted electronically.

Existing law requires an applicant for a license as an insurance adjuster to be a resident of this State with certain exceptions. (NRS 684A.070) On December 9, 2009, the United States District Court for the District of Nevada held that the residency requirement to obtain a license as an insurance adjuster violates the Privileges and Immunities Clause of the United States Constitution. (*Reitz v. Kipper*, 674 F.Supp.2d 1194 (D. Nev. 2009)) **Sections 15-26** of this bill revise provisions relating to the licensing of insurance adjusters to remove the residency requirement. **Sections 15-26** also require that an applicant either pass an examination in this State before receiving a license as an insurance adjuster or, if not a resident of this State, be currently licensed in a state that requires an examination before licensure.

Existing law governs trade practices and frauds relating to the insurance business and gives the Commissioner exclusive jurisdiction to regulate trade practices in the insurance business. (Chapter 686A of NRS) **Section 30** of this bill requires an insurer that uses credit information to provide reasonable exceptions to their rates in certain circumstances.

Under existing law, an insurer may not market certain insurance products without first filing the product with the Commissioner and receiving the Commissioner's approval. (NRS 687B.120) **Section 35** of this bill also requires any group insurance policies to be issued pursuant to NRS 688B.030 or 689B.026 to be filed with and approved by the Commissioner before being marketed.

Under existing law, an employee leasing company is deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans. (NRS 616B.691) In 2007, this section was amended to clarify that such a company is also deemed to be the employer for the purposes of the Employee Retirement Income Security Act of 1974(ERISA). (Chapter 536, Statutes of Nevada 2007, p. 3339) On August 6, 2010, the United States District Court for the District of Nevada held that NRS 616B.691 was preempted by federal law to the extent that it declares the status of any benefit plans for purposes of ERISA. (*Payroll Solutions Group, Ltd. v. Nevada*, No. 02-CV-06-00927-JCM-RJJ (D. Nev. Aug. 6, 2010)) **Section 128** of this bill reverses the changes made to NRS 616B.691 during the 2007 Legislative Session. In addition, **section 128** clarifies that the provisions of subsection 1 of that section apply only for the purposes of chapters 612 and 616A-617 of NRS. **Section 128** also clarifies that the provisions of subsection 2 of that section do not affect the existing employer-employee relationship between a leased employee and a client company.

Sections 33.1, 33.3 and 33.7 of this bill require the Nevada Life and Health Insurance Guarantee Association to provide coverage for certain unallocated annuity contracts owned by a governmental retirement plan under certain circumstances. Section 33.7 provides that such coverage must not exceed $100,000 in the aggregate for each participant, regardless of the number of contracts.

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

Section 1. NRS 679B.136 is hereby amended to read as follows:

679B.136 1. The Commissioner shall adopt regulations governing:

(a) The use of electronic signatures, and the acceptance and transmission of electronic records ~~[, in]~~ ***and payments, including transactions involving claims and other*** transactions relating to insurance; and

(b) The electronic filing of forms and payment of fees, and the storage and reproduction of records, filed with the Division.

2. As used in this section:

(a) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(b) "Electronic record" means a record created, generated, sent, communicated, received or stored by electronic means.

(c) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(d) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(e) "Transaction" means an action or set of actions occurring between two or more persons relating to the transaction of business, commercial or governmental affairs.

Sec. 2. NRS 679B.240 is hereby amended to read as follows:

679B.240 To ascertain compliance with law, or relationships and transactions between any person and any insurer or proposed insurer, the Commissioner may, as often as he or she deems advisable, examine the accounts, records, documents and transactions relating to such compliance or relationships of:

1. Any insurance agent, solicitor, broker, surplus lines broker, general agent, adjuster, insurer representative, bail agent, motor club agent or any other licensee or any other person the Commissioner has reason to believe may be acting as or holding himself or herself out as any of the foregoing.

2. Any person having a contract under which the person enjoys in fact the exclusive or dominant right to manage or control an insurer.

3. Any insurance holding company or other person holding the shares of voting stock or the proxies of policyholders of a domestic insurer, to control the management thereof, as voting trustee or otherwise.

4. Any subsidiary of the insurer.

5. Any person engaged in this state in, or proposing to be engaged in this state in, or holding himself or herself out in this state as so engaging or proposing, or in this state assisting in, the promotion, formation or financing of an insurer or insurance holding corporation, or corporation or other group to finance an insurer or the production of its business.

6. Any ~~[external]~~ ***independent*** review organization, as defined in NRS 695G.018.

Sec. 3. NRS 680C.110 is hereby amended to read as follows:

680C.110 1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.

2. A fee required by this section must be:

(a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;

(b) If an annual fee, paid on or before March 1 of every year;

(c) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and

(d) Deposited in the Fund for Insurance Administration and Enforcement created by NRS 680C.100.

3. The fees required pursuant to this section are not refundable.

4. The following fees must be paid by the following persons to the Commissioner:

(a) Associations of self-insured private employers, as defined in NRS 616A.050:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(b) Associations of self-insured public employers, as defined in NRS 616A.055:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(c) ~~[External]~~ ***Independent*** review organizations, as provided for in NRS 616A.469 or ~~[683A.371,]~~ ***section 8 of this act,*** or both:

(1) Initial fee.....$60

(2) Annual fee.....$60

(d) Insurers not otherwise provided for in this subsection:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(e) Producers of insurance, as defined in NRS 679A.117:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(f) Accredited reinsurers, as provided for in NRS 681A.160:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(g) Intermediaries, as defined in NRS 681A.330:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(h) Reinsurers, as defined in NRS 681A.370:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(i) Administrators, as defined in NRS 683A.025:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(j) Managing general agents, as defined in NRS 683A.060:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(k) Agents who perform utilization reviews, as defined in NRS 683A.376:
(1) Initial fee.....$60
(2) Annual fee.....$60
(l) Insurance consultants, as defined in NRS 683C.010:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(m) Independent adjusters, as defined in NRS 684A.030:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(n) Public adjusters, as defined in NRS 684A.030:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(o) Associate adjusters, as defined in NRS 684A.030:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(p) Motor vehicle physical damage appraisers, as defined in NRS 684B.010:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(q) Brokers, as defined in NRS 685A.030:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(r) Eligible surplus line insurers, as provided for in NRS 685A.070:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(s) Companies, as defined in NRS 686A.330:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(t) Rate service organizations, as defined in NRS 686B.020:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(u) Brokers of viatical settlements, as defined in NRS 688C.030:
(1) Initial fee.....$60
(2) Annual fee.....$60
(v) Providers of viatical settlements, as defined in NRS 688C.080:
(1) Initial fee.....$60
(2) Annual fee.....$60

(w) Agents for prepaid burial contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(x) Agents for prepaid funeral contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(y) Sellers of prepaid burial contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(z) Sellers of prepaid funeral contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(aa) Providers, as defined in NRS 690C.070:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(bb) Escrow officers, as defined in NRS 692A.028:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(cc) Title agents, as defined in NRS 692A.060:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(dd) Captive insurers, as defined in NRS 694C.060:
(1) Initial fee.....$250
(2) Annual fee.....$250
(ee) Fraternal benefit societies, as defined in NRS 695A.010:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(ff) Insurance agents for societies, as provided for in NRS 695A.330:
(1) Initial fee.....$60
(2) Triennial fee.....$60
(gg) Corporations subject to the provisions of chapter 695B of NRS:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(hh) Health maintenance organizations, as defined in NRS 695C.030:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(ii) Organizations for dental care, as defined in NRS 695D.060:
(1) Initial fee.....$1,300
(2) Annual fee.....$1,300
(jj) Purchasing groups, as defined in NRS 695E.100:
(1) Initial fee.....$250

(2) Annual fee.....$250

(kk) Risk retention groups, as defined in NRS 695E.110:

(1) Initial fee.....$250

(2) Annual fee.....$250

(ll) Prepaid limited health service organizations, as defined in NRS 695F.050:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(mm) Medical discount plans, as defined in NRS 695H.050:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(nn) Club agents, as defined in NRS 696A.040:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(oo) Motor clubs, as defined in NRS 696A.050:

(1) Initial fee.....$1,300

(2) Annual fee.....$1,300

(pp) Bail agents, as defined in NRS 697.040:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(qq) Bail enforcement agents, as defined in NRS 697.055:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(rr) Bail solicitors, as defined in NRS 697.060:

(1) Initial fee.....$60

(2) Triennial fee.....$60

(ss) General agents, as defined in NRS 697.070:

(1) Initial fee.....$60

(2) Triennial fee.....$60

Sec. 3.5. NRS 681A.022 is hereby amended to read as follows:

681A.022 "Continuous care coverage" is the issuance of a policy of insurance for workers' compensation, as described in paragraph (c) of subsection 1 of NRS 681A.020, issued jointly with and supplemental to a policy for health insurance, as defined in NRS 681A.030, by one or more insurers covering the same ~~[individual]~~ ***employer*** for the same policy period.

Sec. 4. NRS 681A.040 is hereby amended to read as follows:

681A.040 ***1.*** "Life insurance" is insurance on human lives. The transaction of life insurance includes the granting of endowment benefits, additional incidental benefits in the event of death or dismemberment by accident or accidental means, additional incidental benefits in the event of the insured's disability, optional modes of settlement of proceeds of life insurance, and provisions operating to safeguard contracts of life insurance against lapse.

2. The term includes a policy of life insurance which incorporates long-term care insurance if the policy of life insurance may incorporate the long-term care insurance pursuant to section 36 of this act.

Sec. 5. NRS 681B.200 is hereby amended to read as follows:

681B.200 As used in NRS 681B.200 to 681B.260, inclusive, "qualified actuary" means ~~[a member in good standing of the American Academy of Actuaries, or a successor organization approved by the Commissioner who meets the requirements set forth in the organization's regulations.]~~ ***a person who is qualified to sign the applicable statement of actuarial opinion in accordance with the qualification standards set by the American Academy of Actuaries for an actuary signing such a statement.***

Sec. 5.5. NRS 681B.210 is hereby amended to read as follows:

681B.210 Every insurer ~~[offering life insurance]~~ doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The Commissioner by regulation may further define or enlarge the scope of this opinion.

Sec. 6. NRS 681B.250 is hereby amended to read as follows:

681B.250 1. Except in a case of fraud or willful misconduct, a qualified actuary ***who is appointed by an insurer to issue an opinion pursuant to this chapter or any regulation adopted pursuant thereto*** is not liable for damages to any person other than an affected insurer or the Commissioner for any act, error, omission, decision or conduct with respect to the actuary's opinion.

2. Disciplinary action by the Commissioner against an actuary must be prescribed by regulation by the Commissioner.

Sec. 7. Chapter 683A of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. ***1. An independent review organization must be approved by the Commissioner to be eligible to be assigned to conduct external reviews.***

2. In order to be eligible for approval or reapproval by the Commissioner to conduct external reviews, an independent review organization:

(a) Except as otherwise provided in this section, must be accredited by a nationally recognized private accrediting entity which the Commissioner has determined has standards for the accreditation of independent review organizations that are equivalent to or exceed the minimum qualifications for independent review organizations established under section 9 of this act; and

(b) Must submit an application in accordance with subsection 4.

3. The Commissioner shall develop an application form for the initial approval and reapproval of an independent review organization to conduct external reviews.

4. An independent review organization wishing to be approved or reapproved to conduct external reviews must submit the application form and include with the form all documentation and information necessary for the Commissioner to determine if the independent review organization satisfies the minimum qualifications established under section 9 of this act.

5. The Commissioner may approve an independent review organization that is not accredited by a nationally recognized private accrediting entity if there are no acceptable nationally recognized private accrediting entities providing accreditation of independent review organizations.

6. The Commissioner may charge any applicable fee which an independent review organization must submit to the Commissioner with its application for initial approval or reapproval.

7. An approval or reapproval is effective for 2 years unless the Commissioner determines before its expiration that the independent review organization does not satisfy the minimum qualifications established under section 9 of this act.

8. Whenever the Commissioner determines that an independent review organization has lost its accreditation or no longer satisfies the minimum requirements established under section 9 of this act, the Commissioner shall terminate the approval of the independent review organization and remove the independent review organization from the list of independent review organizations approved to conduct external reviews that is maintained by the Commissioner pursuant to subsection 9.

9. The Commissioner shall maintain and periodically update a list of approved independent review organizations.

10. The Commissioner may adopt regulations to carry out the provisions of this section.

11. As used in this section, "independent review organization" has the meaning ascribed to it in NRS 695G.018.

Sec. 9. *1. To be approved under section 8 of this act to conduct external reviews, an independent review organization shall have and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process which include, without limitation:*

(a) A quality assurance mechanism which ensures:

(1) That an external review is conducted within the specified time frames and required notices are provided in a timely manner;

(2) The selection of qualified and impartial clinical reviewers to conduct external reviews on behalf of the independent review organization, suitable matching of reviewers to specific cases and that the independent review organization employs or contracts with an adequate number of clinical reviewers to meet this requirement;

(3) The confidentiality of medical and treatment records and clinical review criteria; and

(4) That a person employed by or under contract with the independent review organization adheres to the requirements of the external review process;

(b) A toll-free telephone service that is capable of accepting, recording or providing appropriate instruction relating to external reviews to incoming telephone callers 24 hours a day, 7 days a week; and

(c) An agreement to maintain and provide to the Office for Consumer Health Assistance the information required pursuant to section 110 of this act.

2. A clinical reviewer assigned by an independent review organization to conduct an external review must be a physician or other appropriate health care provider who must:

(a) Be an expert in the treatment of the covered person's medical condition that is the subject of the external review;

(b) Be knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical condition as the covered person;

(c) Hold a nonrestricted license in a state or territory of the United States and, if a physician, hold a current certification by a specialty board of the American Board of Medical Specialties in the area or areas appropriate to the subject of the external review; and

(d) Have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical reviewer's physical, mental or professional competence or moral character.

3. In addition to the requirements set forth in subsection 1, an independent review organization may not own or control, be a subsidiary of or in any way be owned or controlled by, or exercise control with a health benefit plan, a national, state or local trade association of health benefit plans, or a national, state or local trade association of health care providers.

4. In addition to the requirements set forth in subsections 1, 2 and 3, to be approved pursuant to section 8 of this act to conduct an external review of a specific case, neither the independent review organization selected to conduct the external review nor a clinical reviewer assigned by the independent review organization to conduct the external review may have a material professional, familial or financial conflict of interest with any of the following:

(a) The health carrier that is the subject of the external review;

(b) The covered person whose treatment is the subject of the external review or the covered person's authorized representative;

(c) Any officer, director or management employee of the health carrier that is the subject of the external review;

(d) The health care provider, the health care provider's medical group or independent practice association recommending the health care service or treatment that is the subject of the external review;

(e) The facility at which the recommended health care service or treatment would be provided; or

(f) The developer or manufacturer of the principal drug, device, procedure or other therapy being recommended for the covered person whose treatment is the subject of the external review.

5. In determining whether an independent review organization or a clinical reviewer of the independent review organization has a material professional, familial or financial conflict of interest for purposes of subsection 4, the Office for Consumer Health Assistance shall take into consideration situations where the independent review organization to be assigned to conduct an external review of a specific case or a clinical reviewer to be assigned by the independent review organization to conduct an external review of a specific case may have an apparent professional, familial or financial relationship or connection with a person described in subsection 4, but that the characteristics of that relationship or connection are such that they are not a material professional, familial or financial conflict of interest that results in the disapproval of the independent review organization or the clinical reviewer from conducting the external review.

6. The Commissioner shall initially review and periodically review the standards of a nationally recognized private accrediting entity for accreditation of independent review organizations to determine whether the entity's standards are equivalent to or exceed the minimum qualifications established in this section. The Commissioner may accept a review conducted by the National Association of Insurance Commissioners for the purpose of the determination under this subsection and subsection 7.

7. Upon request, a nationally recognized private accrediting entity shall make its current standards for the accreditation of independent review organizations available to the Commissioner or to the National Association of Insurance Commissioners in order for the Commissioner to determine if the entity's standards are equivalent to or exceed the minimum qualifications established in this section. The Commissioner may exclude any private accrediting entity that is not reviewed by the National Association of Insurance Commissioners.

8. An independent review organization must be unbiased. An independent review organization shall establish and maintain written procedures to ensure that it is unbiased in addition to any other procedures required under this section.

9. As used in this section, the words and terms defined in NRS 695G.012 to 695G.080, inclusive, and sections 71 to 101, inclusive, of this act, have the meanings ascribed to them in those sections.

Sec. 9.5. NRS 683A.025 is hereby amended to read as follows:

683A.025 1. Except as limited by this section, "administrator" means a person who:

(a) Directly or indirectly underwrites or collects charges or premiums from or adjusts or settles claims of residents of this State or any other state from within this State in connection with workers' compensation insurance, life or health insurance coverage or annuities, including coverage or annuities provided by an employer for his or her employees;

(b) Administers an internal service fund pursuant to NRS 287.010;

(c) Administers a trust established pursuant to NRS 287.015, under a contract with the trust;

(d) Administers a program of self-insurance for an employer;

(e) Administers a program which is funded by an employer and which provides pensions, annuities, health benefits, death benefits or other similar benefits for his or her employees; or

(f) Is an insurance company that is licensed to do business in this State or is acting as an insurer with respect to a policy lawfully issued and delivered in a state where the insurer is authorized to do business, if the insurance company performs any act described in paragraphs (a) to (e), inclusive, for or on behalf of another insurer ~~[.]~~ ***unless the insurers are affiliated and each insurer is licensed to do business in this State.***

2. "Administrator" does not include:

(a) An employee authorized to act on behalf of an administrator who holds a certificate of registration from the Commissioner.

(b) An employer acting on behalf of his or her employees or the employees of a subsidiary or affiliated concern.

(c) A labor union acting on behalf of its members.

(d) Except as otherwise provided in paragraph (f) of subsection 1, an insurance company licensed to do business in this State or acting as an insurer with respect to a policy lawfully issued and delivered in a state in which the insurer was authorized to do business.

(e) A producer of life or health insurance licensed in this State, when his or her activities are limited to the sale of insurance.

(f) A creditor acting on behalf of his or her debtors with respect to insurance covering a debt between the creditor and debtor.

(g) A trust and its trustees, agents and employees acting for it, if the trust was established under the provisions of 29 U.S.C. § 186.

(h) Except as otherwise provided in paragraph (c) of subsection 1, a trust and its trustees, agents and employees acting for it, if the trust was established pursuant to NRS 287.015.

(i) A trust which is exempt from taxation under section 501(a) of the Internal Revenue Code, 26 U.S.C. § 501(a), its trustees and employees, and a custodian, his or her agents and employees acting under a custodial account which meets the requirements of section 401(f) of the Internal Revenue Code, 26 U.S.C. § 401(f).

(j) A bank, credit union or other financial institution which is subject to supervision by federal or state banking authorities.

(k) A company which issues credit cards, and which advances for and collects premiums or charges from credit card holders who have authorized it to do so, if the company does not adjust or settle claims.

(l) An attorney at law who adjusts or settles claims in the normal course of his or her practice or employment, but who does not collect charges or premiums in connection with life or health insurance coverage or with annuities.

3. As used in this section, "affiliated" means any insurer or other person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another insurer or other person.

Sec. 10. NRS 683A.160 is hereby amended to read as follows:

683A.160 ***1.*** Each applicant for a license as a managing general agent must submit with his or her application:

~~[1. A complete set of his or her fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;~~

~~2.]~~ ***(a)*** The appointment of the applicant as a managing general agent by each insurer or underwriter department to be so represented; and

~~[3.]~~ ***(b)*** The application and license fee specified in NRS 680B.010 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

2. Each applicant must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

3. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

Sec. 11. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his or her knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years;

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;

(c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;

(d) Paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded;

(b) Designated a natural person who is licensed as a producer of insurance and who is authorized to transact business on behalf of the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance; and

(c) If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.

3. A natural person who is a resident of this State applying for a license must ~~[furnish a complete set of his or her fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt]~~ ***, as part of his or her application and at the applicant's own expense:***

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

~~[4.]~~ ***5.*** The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 12. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability ~~[.]~~ ***income.***

(b) ~~[Health]~~ ***Accident and health*** insurance for sickness, bodily injury or accidental death, which may include benefits for disability ~~[.]~~ ***income.***

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

~~[(e) Surety]~~ ***For the purposes of a producer of insurance, this line of insurance includes surety*** indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

~~[(f)]~~ ***(e)*** Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

~~[(g)]~~ ***(f)*** Credit insurance, including ***credit*** life, ***credit*** ~~[disability,]~~ ***accident and health, credit*** property, ***credit*** ~~[unemployment,]~~ involuntary unemployment, ~~[mortgage life, mortgage guaranty, mortgage disability,]~~ guaranteed ***asset*** protection ***,*** ~~[of assets,]~~ and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

~~[(h)]~~ ***(g)*** Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

~~[(i)]~~ ***(h)*** Fixed annuities ***, including, without limitation, indexed annuities,*** as a limited line.

~~[(j)]~~ ***(i)*** Travel and baggage as a limited line.

~~[(k)]~~ ***(j)*** Rental car agency as a limited line.

~~[(l) Continuous care coverage, which includes health insurance, as set forth in paragraph (b), and may include insurance for workers' compensation.]~~

(k) Crop as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, all applicable fees for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account are paid for each license and each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his or her license within 30 days after the date specified on the license for the renewal if the producer of insurance

otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of all applicable renewal fees, except for any fee required pursuant to NRS 680C.110. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his or her license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice all applicable renewal fees, except for any fee required pursuant to NRS 680C.110, is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his or her license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where the resident producer of insurance principally conducts transactions under his or her license. The place of business may be in his or her residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which the licensee conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which the licensee conducts business as a producer of insurance or his or her business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, the Commissioner may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his or her last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 12.5. NRS 683A.367 is hereby amended to read as follows:

683A.367 1. A person licensed as a producer of ~~[~~~continuous care coverage~~]~~ ***insurance*** shall not sell, solicit or negotiate ~~[~~~insurance for workers' compensation~~]~~ ***continuous care coverage*** unless ~~[~~~:~~

~~(a) The~~ ***the*** person is licensed as a producer of ~~[casualty]~~ ***:***

(a) ~~[Casualty]~~ Accident and health insurance and casualty insurance; or

(b) ~~[The policy of insurance for workers' compensation is sold jointly with and supplemental to a policy of health insurance covering the same individual for the same policy period.]~~ ***Accident and health insurance and has received approval from the Commissioner to market continuous care coverage.***

2. A person who violates the provisions of subsection 1 is subject to an administrative fine pursuant to subsection 3 of NRS 683A.201.

Sec. 12.7. **NRS 683A.373 is hereby amended to read as follows:**

683A.373 As soon as practicable after preparing an annual list of ~~[external]~~ ***independent*** review organizations pursuant to subsection 8 of NRS 683A.371, the Commissioner shall submit a copy of the list to the Office for Consumer Health Assistance. If a change occurs in the list, the Commissioner shall notify the Office for Consumer Health Assistance of the change.

Sec. 13. Chapter 684A of NRS is hereby amended by adding thereto the provisions set forth as sections 14, 15 and 16 of this act.

Sec. 14. ***As used in this Code, unless the context otherwise requires, the words and terms defined in NRS 684A.020 and 684A.030 and section 15 of this act have the meanings ascribed to them in those sections.***

Sec. 15. ***"Home state" means:***

1. The District of Columbia or any state or territory of the United States in which an adjuster maintains his or her principal place of residence or principal place of business and is licensed to act as an adjuster; or

2. If neither the state in which the adjuster maintains his or her principal place of residence nor the state in which the adjuster maintains his or her principal place of business has a licensing or examination requirement, a state:

(a) Which has an examination requirement;

(b) In which the adjuster is licensed; and

(c) Which the adjuster declares to be the home state.

Sec. 16. ***1. The provisions of NRS 683A.341 and 686A.310 apply to adjusters and associate adjusters.***

2. For the purposes of subsection 1, unless the context requires that a section apply only to producers of insurance or insurers, any reference in those sections to "producer of insurance" or "insurer" must be replaced by a reference to "adjuster or associate adjuster."

Sec. 17. NRS 684A.020 is hereby amended to read as follows:

684A.020 1. ~~[As used in this Code, "adjuster"]~~ ***"Adjuster"*** means any person who, for compensation as an independent contractor or for a fee or commission, investigates and settles, and reports to his or her principal relative to, claims:

(a) Arising under insurance contracts for property, casualty or surety coverage, on behalf solely of the insurer or the insured; or

(b) Against a self-insurer who is providing similar coverage, unless the coverage provided relates to a claim for industrial insurance.

2. For the purposes of this chapter:

(a) An associate adjuster, as defined in NRS 684A.030;

(b) An attorney at law who adjusts insurance losses from time to time incidental to the practice of his or her profession;

(c) An adjuster of ocean marine losses;

(d) A salaried employee of an insurer; or

(e) A salaried employee of a managing general agent maintaining an underwriting office in this state,

➥ is not considered an adjuster.

Sec. 18. NRS 684A.030 is hereby amended to read as follows:

684A.030 ~~[As used in this Code:]~~

1. "Independent adjuster" means an adjuster representing the interests of an insurer or a self-insurer.

2. "Public adjuster" means an adjuster employed by and representing solely the financial interests of the insured named in the policy.

3. "Associate adjuster" means an employee of an adjuster who, under the direct supervision of the adjuster, assists in the investigation and settlement of insurance losses on behalf of his or her employer.

Sec. 19. NRS 684A.040 is hereby amended to read as follows:

684A.040 1. No person may act as, or hold himself or herself out to be, an adjuster or associate adjuster in this State unless then licensed as such under the applicable independent adjuster's license, public adjuster's license or associate adjuster's license, as the case may be, issued under the provisions of this chapter.

2. ~~[For purposes of this chapter, the Commissioner may issue a limited license to an adjuster handling claims under a contract of one or more of the kinds of insurance defined in NRS 681A.010 to 681A.080, inclusive.~~

~~3.]~~ Any person violating the provisions of this section is guilty of a gross misdemeanor.

~~[4.]~~ ***3.*** A person who acts as an adjuster in this State without a license is subject to an administrative fine of not more than $1,000 for each violation.

Sec. 20. NRS 684A.070 is hereby amended to read as follows:

684A.070 1. For the protection of the people of this State, the Commissioner may not issue or continue any license as an adjuster except in compliance with the provisions of this chapter. Any person for whom a license is issued or continued must:

(a) Be at least 18 years of age;

(b) ~~[Except as otherwise provided in subsection 2, be a resident of this State, and have resided therein for at least 90 days before his or her application for the license;~~

~~(c)]~~ Be competent, trustworthy, financially responsible and of good reputation;

~~[(d)]~~ ***(c)*** Never have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

~~[(e) Have had at least 2 years' recent experience with respect to the handling of loss claims of sufficient character reasonably to enable the person to fulfill the responsibilities of an adjuster;~~

~~(f) Pass]~~

(d) Unless exempted pursuant to NRS 684A.100 or 684A.105, pass all examinations required under this chapter; and

~~[(g)]~~ ***(e)*** Not be concurrently licensed as a producer of insurance for property, casualty or surety or a surplus lines broker, except as a bail agent.

2. ~~[The Commissioner may waive the residency requirement set forth in paragraph (b) of subsection 1 if the applicant is:~~

~~(a) An adjuster licensed under the laws of another state who has been brought to this State by a firm or corporation with whom the adjuster is employed that is licensed as an adjuster in this State to fill a vacancy in the firm or corporation in this State;~~

~~(b) An adjuster licensed in an adjoining state whose principal place of business is located within 50 miles from the boundary of this State; or~~

~~(c) An adjuster who is applying for a limited license pursuant to NRS 684A.155.~~

~~3.]~~ ***A natural person who is a resident of this State applying for a license must, as part of his or her application and at the applicant's own expense:***

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to

such other law enforcement agencies as the Commissioner deems necessary.

3. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

4. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph ~~[(d)]~~ ***(c)*** of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend, revoke or limit the license of an adjuster pursuant to NRS 684A.210.

Sec. 21. NRS 684A.100 is hereby amended to read as follows:

684A.100 Each person who intends to apply for a license as an adjuster must, before applying for the license, personally take and pass to the Commissioner's satisfaction a written examination testing the applicant's qualifications and competence to act as an adjuster and his or her knowledge of pertinent provisions of this Code ~~[.]~~ ***unless:***

1. The person:

(a) Is not a resident of this State;

(b) Has passed an examination to become licensed as an adjuster in the person's home state; and

(c) Is currently licensed and in good standing in the person's home state as an adjuster; or

2. The person was licensed in this State as the same type of adjuster within the 24-month period immediately preceding the date of the application, unless the previous license was revoked or suspended or its continuation was refused by the Commissioner.

Sec. 22. NRS 684A.105 is hereby amended to read as follows:

684A.105 An adjuster whose license expires is exempt from retaking the examination required by NRS 684A.100 if ~~[the adjuster applies and is relicensed within 6 months after the date of expiration.]~~ ***:***

1. The adjuster:

(a) Is not a resident of this State;

(b) Has passed an examination to become licensed as an adjuster in the person's home state; and

(c) Is currently licensed and in good standing in the person's home state as an adjuster; or

2. The adjuster was licensed in this State as the same type of adjuster within the 24-month period immediately preceding the date of the

application, unless the previous license was revoked or suspended or its continuation was refused by the Commissioner.

Sec. 23. NRS 684A.130 is hereby amended to read as follows:

684A.130 1. Each license issued under this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. A license may be renewed upon payment of all applicable fees for renewal to the Commissioner and submission of the statement required pursuant to NRS 684A.143 if the licensee is a natural person. The statement, if required, must be submitted and all applicable fees must be paid on or before the last day of the month in which the license is renewable.

2. Any license not so renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by the Commissioner within 30 days after the expiration of the license if the request is accompanied by:

(a) A fee for renewal of 150 percent of all applicable fees otherwise required, except for any fee required pursuant to NRS 680C.110; ~~[and]~~

(b) If the person requesting renewal is a natural person, the statement required pursuant to NRS 684A.143 ~~[.]~~ ***;***

(c) Proof of successful completion of any requirement for an examination unless exempt pursuant to NRS 684A.105; and

(d) If applicable, a request for a waiver of the time limit for renewal and of any fine or sanction otherwise required or imposed because of the failure of the licensee to renew his or her license because of military service, extended medical disability or other extenuating circumstance.

3. This section does not apply to temporary licenses issued under NRS 684A.150.

Sec. 24. NRS 684A.143 is hereby amended to read as follows:

684A.143 1. A natural person who applies for the issuance or renewal of a license shall submit to the Commissioner 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 Commissioner shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Commissioner.

3. A license may not be issued or renewed by the Commissioner if the applicant is a natural person who:

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

(b) Indicates on the statement submitted pursuant to subsection 1 that 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 Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

5. As used in this section, "license" means:

(a) A license as an adjuster; ***and***

(b) A license as an associate adjuster**.** ~~[~~; and

~~(c) A limited license issued pursuant to NRS 684A.155.]~~

Sec. 25. NRS 684A.147 is hereby amended to read as follows:

684A.147 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

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

3. As used in this section, "license" means:

(a) A license as an adjuster; ***and***

(b) A license as an associate adjuster**.** ~~[~~; and

~~(c) A limited license issued pursuant to NRS 684A.155.]~~

Sec. 26. NRS 684A.200 is hereby amended to read as follows:

684A.200 Nonresidents of this state who are granted licenses as adjusters pursuant to ~~[subsection 2 of]~~ NRS 684A.070 are also subject to NRS 683A.281.

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. NRS 685A.210 is hereby amended to read as follows:

685A.210 1. The Commissioner may adopt reasonable regulations, consistent with the provisions of this chapter, for any of the following purposes:

(a) Effectuation of the law;

(b) Establishment of procedures through which determination is to be made as to the eligibility of particular proposed coverages for export; ~~[and]~~

(c) Establishment of procedures for the operation of a nonprofit organization of brokers designed to assist brokers in complying with the provisions of this chapter ~~[.]~~ ***; and***

(d) The use of electronic signatures and the acceptance and transmission of electronic records and payments, including transactions involving claims and other transactions relating to surplus lines insurance.

2. Such regulations carry the penalty provided by NRS 679B.130.

Sec. 30. Chapter 686A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other law or regulation, an insurer that uses credit information shall, upon receipt of a written request from an applicant or policyholder, provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for an applicant or policyholder who has experienced and whose credit information has been directly influenced by any of the following:

(a) A catastrophic event, as declared by the Federal or State Government;

(b) A serious illness or injury, or a serious illness or injury to an immediate family member;

(c) The death of a spouse, child or parent;

(d) Divorce or involuntary interruption of legally-owed alimony or support payments;

(e) Identify theft;

(f) Temporary loss of employment for a period of 3 months or more, if it results from involuntary termination;

(g) Military deployment overseas; or

(h) Other events, as determined by the insurer.

2. If an applicant or policyholder submits a request for an exception as set forth in subsection 1, an insurer may, in its sole discretion:

(a) Require the applicant or policyholder to provide reasonable written and independently verifiable documentation of the event;

(b) Require the applicant or policyholder to demonstrate that the event had direct and meaningful impact on the credit information of the applicant or policyholder;

(c) Require that such a request be made not more than 60 days after the date of the application for insurance or the policy renewal;

(d) Grant an exception despite the applicant or policyholder not providing the initial request for an exception in writing; or

(e) Grant an exception where the applicant or policyholder asks for consideration of repeated events or the insurer has considered this event previously.

3. An insurer is not out of compliance with any law or rule relating to underwriting, rating or rate filing as a result of granting an exception under this section. Nothing in this section shall be construed to provide an applicant or policyholder with a cause of action that does not exist in the absence of this section.

4. The insurer shall provide notice to each applicant and policyholder that reasonable exceptions are available and include information about how the applicant or policyholder may inquire further about such exceptions.

5. Within 30 days after the insurer's receipt of sufficient documentation of an event described in subsection 1, the insurer shall inform the applicant or policyholder of the outcome of the request for a reasonable exception. Such communication must be in writing or provided to the applicant or policyholder in the same medium as the request.

6. The Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 31. NRS 686A.600 is hereby amended to read as follows:

686A.600 As used in NRS 686A.600 to 686A.730, inclusive, ***and section 30 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 686A.610 to 686A.660, inclusive, have the meanings ascribed to them in those sections.

Sec. 32. NRS 686A.670 is hereby amended to read as follows:

686A.670 The provisions of NRS 686A.600 to 686A.730, inclusive, ***and section 30 of this act*** do not apply to a contract of surety insurance issued pursuant to chapter 691B of NRS or any commercial or business policy.

Sec. 33. NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2, NRS 686B.010 to 686B.1799, inclusive, apply to all kinds and lines of direct insurance written on risks or operations in this State by any insurer authorized to do business in this State, except:

(a) Ocean marine insurance;

(b) Contracts issued by fraternal benefit societies;

(c) Life insurance and credit life insurance;

(d) Variable and fixed annuities;

(e) ~~[~~Group and blanket health insurance and credit~~]~~ ***Credit*** ***accident and*** health insurance;

(f) Property insurance for business and commercial risks;

(g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS; ~~[~~and~~]~~

(h) Surety insurance ~~[~~.~~]~~ ***;*** ~~*[and]*~~

(i) Health insurance offered through a group health plan maintained by a large employer ~~*[.]*~~ ***; and***

(j) Credit involuntary unemployment insurance.

2. The exclusions set forth in paragraphs (f) and (g) of subsection 1 extend only to issues related to the determination or approval of premium rates.

~~[3. As used in this section, "large employer" has the meaning ascribed to it in 42 U.S.C. § 18024(b)(1).]~~

Sec. 33.1. **Chapter 686C of NRS is hereby amended by adding thereto a new section to read as follows:**

"Unallocated annuity contract" means an annuity contract or group annuity certificate which is not issued to and owned by a natural person except to the extent such an annuity contract or group annuity certificate is guaranteed to a natural person by an insurer under such contract or certificate.

Sec. 33.3. **NRS 686C.035 is hereby amended to read as follows:**

686C.035 1. This chapter does not provide coverage for:

(a) A portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the owner of the policy or contract.

(b) A policy or contract of reinsurance unless assumption certificates have been issued pursuant to that policy or contract.

(c) A portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate or similar factor determined by the use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

(1) Averaged over the period of 4 years before the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting 2 percentage points from Moody's Corporate Bond Yield Average averaged for the same period, or for the period between the date of issuance of the policy or contract and the date the association became obligated, whichever period is less; and

(2) On or after the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting 3 percentage points from Moody's Corporate Bond Yield Average as most recently available.

(d) A portion of a policy or contract issued to a plan or program of an employer, association or other person to provide life, health or annuity benefits to its employees, members or other persons to the extent that the plan or program is self-funded or uninsured, including, but not limited to, benefits payable by an employer, association or other person under:

(1) A multiple employer welfare arrangement described in 29 U.S.C. § 1144;

(2) A minimum-premium group insurance plan;

(3) A stop-loss group insurance plan; or

(4) A contract for administrative services only.

(e) A portion of a policy or contract to the extent that it provides for dividends, credits for experience, voting rights or the payment of any fee or

allowance to any person, including the owner of a policy or contract, for services or administration connected with the policy or contract.

(f) A policy or contract issued in this state by a member insurer at a time when the member insurer was not authorized to issue the policy or contract in this state.

(g) A portion of a policy or contract to the extent that the assessments required by NRS 686C.230 with respect to the policy or contract are preempted by federal law.

(h) An obligation that does not arise under the express written terms of the policy or contract issued by the insurer, including:

(1) Claims based on marketing materials;

(2) Claims based on side letters or other documents that were issued by the insurer without satisfying applicable requirements for filing or approval of policy forms;

(3) Misrepresentations of or regarding policy benefits;

(4) Extra-contractual claims; or

(5) A claim for penalties or consequential or incidental damages.

(i) A contractual agreement that establishes the member insurer's obligation to provide a guarantee based on accounting at book value for participants in a defined-contribution benefit plan by reference to a portfolio of assets owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer.

(j) A portion of a policy or contract to the extent that it provides for interest or other changes in value which are determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the rights of the owner of the policy or contract are subject to forfeiture, determined on the date the member insurer becomes an impaired or insolvent insurer, whichever occurs first. If the interest or changes in value of a policy or contract are credited less frequently than annually, for the purpose of determining the values that have been credited and are not subject to forfeiture, the interest or change in value determined by using procedures stated in the policy or contract must be credited as if the contractual date for crediting interest or changing values was the date of the impairment or insolvency of the insured member, whichever occurs first and is not subject to forfeiture.

(k) An unallocated annuity contract ~~[.]~~ ***other than an annuity owned by a governmental retirement plan established under section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401, 403(b) and 457, respectively, or the trustees of such a plan.***

2. As used in this section, "Moody's Corporate Bond Yield Average" means the monthly average for corporate bonds published by Moody's Investors Service, Inc., or any successor average.

Sec. 33.5. **NRS 686C.040 is hereby amended to read as follows:**

686C.040 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 686C.045 to 686C.125, inclusive**, *and section 33.1 of this act*** have the meanings ascribed to them in those sections.

Sec. 33.7. **NRS 686C.210 is hereby amended to read as follows:**

686C.210 1. The benefits that the Association may become obligated to cover may not exceed the lesser of:

(a) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer;

(b) With respect to one life, regardless of the number of policies or contracts:

(1) Three hundred thousand dollars in death benefits from life insurance, but not more than $100,000 in net cash for surrender and withdrawal for life insurance; or

(2) One hundred thousand dollars in the present value of benefits from annuities, including net cash for surrender and withdrawal;

(c) With respect to health insurance for any one natural person:

(1) One hundred thousand dollars for coverages other than disability insurance, basic hospital, medical and surgical insurance or major medical insurance, including any net cash for surrender or withdrawal;

(2) Three hundred thousand dollars for disability insurance; or

(3) Five hundred thousand dollars for basic hospital, medical and surgical insurance or major medical insurance; ~~[or]~~

(d) With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, $100,000 in present value of benefits from the annuity in the aggregate, including any net cash for surrender or withdrawal ~~[.]~~ ***; or***

(e) With respect to each participant in a governmental retirement plan covered by an unallocated annuity contract which is owned by a governmental retirement plan established under section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401, 403(b) and 457, respectively, or the trustees of such a plan, and which is approved by the Commissioner, an aggregate of $100,000, regardless of the number of contracts.

2. In no event is the Association obligated to cover more than:

(a) With respect to any one life or person under paragraphs (b) and (c) of subsection 1:

(1) An aggregate of $300,000 in benefits, excluding benefits for basic hospital, medical and surgical insurance or major medical insurance; or

(2) An aggregate of $500,000 in benefits, including benefits for basic hospital, medical and surgical insurance or major medical insurance.

(b) With respect to one owner of several nongroup policies of life insurance, whether the owner is a natural person or an organization and whether the persons insured are officers, managers, employees or other persons, more than $5,000,000 in benefits, regardless of the number of policies and contracts held by the owner.

3. The limitations set forth in this section are limitations on the benefits for which the Association is obligated before taking into account its rights to subrogation or assignment or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The cost of the Association's obligations under this chapter may be met by the use of assets attributable to covered policies, or reimbursed to the Association pursuant to its rights to subrogation or assignment.

4. In performing its obligation to provide coverage under NRS 686C.150 and 686C.152, the Association need not guarantee, assume, reinsure or perform, or cause to be guaranteed, assumed, reinsured or performed, the contractual obligations of the impaired or insolvent insurer under a covered policy or contract which do not materially affect the economic value or economic benefits of the covered policy or contract.

Sec. 34. NRS 687A.037 is hereby amended to read as follows:

687A.037 "Member insurer" means any person, except a fraternal or nonprofit service corporation which:

1. Writes any kind of insurance to which this chapter applies, including the exchange of reciprocal or interinsurance agreements of indemnity.

2. Is ~~[licensed]~~ ***authorized*** to transact insurance in this state.

Sec. 35. NRS 687B.120 is hereby amended to read as follows:

687B.120 1. ***Except as otherwise provided in subsection 2:***

(a) No life or health insurance policy or contract, annuity contract form, policy form, health care plan or plan for dental care, whether individual, group or blanket, including those to be issued by a health maintenance organization, organization for dental care or prepaid limited health service organization, or application form where a written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, or form of individual certificate or statement of coverage to be issued under group or blanket contracts, or by a health maintenance organization, organization for dental care or prepaid limited health service organization, may be delivered or issued for delivery in this state, unless the form has been filed with and approved by the Commissioner. ~~[This subsection does not apply to any special rider or endorsement which relates to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies, which special riders or endorsements are used at the request of the individual policyholder, contract holder or certificate holder.]~~

(b) As to group insurance policies effectuated and delivered outside this state but covering persons resident in this state, the group certificates to be delivered or issued for delivery in this state must be filed, for informational purposes only, with the Commissioner at the request of the Commissioner.

2. ***As to group insurance policies to be issued to a group approved pursuant to NRS 688B.030 or 689B.026, no policies of group insurance may be marketed to a resident or employer of this State unless the policy***

and any form or certificate to be issued pursuant to the policy has been filed with and approved by the Commissioner.

3. Every ~~[such]~~ filing ***made pursuant to the provisions of subsection 1 or 2*** must be made not less than 45 days in advance of any ~~[such]~~ delivery ~~[.]~~ ***pursuant to subsection 1 or marketing pursuant to subsection 2.*** At the expiration of 45 days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the Commissioner. Approval of any such form by the Commissioner constitutes a waiver of any unexpired portion of such waiting period. The Commissioner may extend by not more than an additional 30 days the period within which the Commissioner may so affirmatively approve or disapprove any such form, by giving notice to the insurer of the extension before expiration of the initial 45-day period. At the expiration of any such period as so extended, and in the absence of prior affirmative approval or disapproval, any such form shall be deemed approved. The Commissioner may at any time, after notice and for cause shown, withdraw any such approval.

~~[3.]~~ ***4.*** Any order of the Commissioner disapproving any such form or withdrawing a previous approval must state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form is effective at the expiration of such a period, not less than 30 days after the giving of notice of withdrawal, as the Commissioner in such notice prescribes.

~~[4.]~~ ***5.*** The Commissioner may, by order, exempt from the requirements of this section for so long as the Commissioner deems proper any insurance document or form or type thereof specified in the order, to which, in the opinion of the Commissioner, this section may not practicably be applied, or the filing and approval of which are, in the opinion of the Commissioner, not desirable or necessary for the protection of the public.

~~[5.]~~ ***6.*** Appeals from orders of the Commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in NRS 679B.310 to 679B.370, inclusive.

Sec. 36. Chapter 688A of NRS is hereby amended by adding thereto a new section to read as follows:

1. An annuity or policy of life insurance may incorporate long-term care insurance if:

(a) The long-term care insurance incorporated into the annuity or policy of life insurance complies with regulations adopted by the Commissioner.

(b) The Commissioner approves the incorporation of long-term care insurance into the annuity or policy of life insurance.

2. The Commissioner shall adopt regulations that define "long-term care insurance" for the purposes of this section.

Sec. 37. NRS 688A.020 is hereby amended to read as follows:

688A.020 ***1.*** For the purposes of this Code, an "annuity" is a contract under which obligations are assumed to make periodic payments for a specific term or terms or where the making or continuance of all or some

such payments, or the amount of any such payment, is dependent upon continuance of human life, except payments made pursuant to optional modes of settlement under the authority of NRS 681A.040 **.** ~~[("life insurance" defined). Such a contract which includes extra benefits of the kinds set forth in NRS 681A.030 ("health insurance" defined) and NRS 681A.040 ("life insurance" defined) shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.]~~

2. The term includes an annuity contract which incorporates long-term care insurance if the annuity contract may incorporate the long-term care insurance pursuant to section 36 of this act.

Sec. 38. NRS 688A.165 is hereby amended to read as follows:

688A.165 ***1.*** No ***annuity contract, pure endowment contract or*** policy of life insurance, other than ~~[an industrial life insurance]~~ ***a replacement contract or*** policy, may be delivered or issued for delivery in this state unless it contains a provision, or a notice attached to the ***contract or*** policy, which, in substance, states that during a period of 10 days from the date the ***contract or*** policy is delivered to the ***contract or*** policy owner, it may be surrendered to the insurer together with a written request for cancellation of the ***contract or*** policy and in such event, the insurer will refund any premium paid therefor, including any ***contract or*** policy fees or other charges.

2. No annuity contract, pure endowment contract or policy of life insurance that is a replacement contract or policy may be delivered or issued for delivery in this State unless it contains a provision, or a notice attached to the contract or policy, which, in substance, states that during a period of 30 days after the date on which the contract or policy is delivered to the contract or policy owner, it may be surrendered to the insurer together with a written request for cancellation of the contract or policy and in such event, the insurer will refund any premium paid therefor, including any contract or policy fees or other charges.

3. This section does not apply to industrial life insurance policies.

Sec. 39. NRS 688A.180 is hereby amended to read as follows:

688A.180 1. No annuity or pure endowment contract, other than reversionary annuities (also called survivorship annuities) or group annuities and except as stated in this section, shall be delivered or issued for delivery in this state unless it contains in substance each of the provisions specified in NRS ***688A.165 and*** 688A.190 to 688A.240, inclusive. Any of such provisions not applicable to single-premium annuities or single-premium pure endowment contracts shall not, to that extent, be incorporated therein.

2. This section does not apply to contracts for deferred annuities included in, or upon the lives of beneficiaries under, life insurance policies.

Sec. 40. NRS 688A.363 is hereby amended to read as follows:

688A.363 1. The minimum values, specified in NRS 688A.3631 to 688A.3637, inclusive, and 688A.366, of any paid-up annuity, cash surrender or death benefits available under an annuity contract must be based upon minimum nonforfeiture amounts as defined in this section.

2. ~~[With respect to contracts providing for flexible considerations, the]~~ ***The*** minimum nonforfeiture amount for any time at or before the commencement of any annuity payments is equal to an accumulation ***of 87.5 percent of the gross considerations*** up to such time at a rate of interest calculated pursuant to subsection 3, which must be decreased by the sum of:

(a) Any prior withdrawals from or partial surrenders of the contract, accumulated at a rate of interest calculated pursuant to subsection 3;

(b) An annual charge in the amount of $50, accumulated at rates of interest calculated pursuant to subsection 3;

(c) Any premium tax paid by the company for the contract, accumulated at rates of interest calculated pursuant to subsection 3; and

(d) The amount of any indebtedness to the company on the contract, including interest due and accrued.

~~[➥ The net considerations for a given contract year used to define the minimum nonforfeiture amount must be an amount that is equal to 87.5 percent of the gross considerations credited to the contract during that contract year.]~~

3. For the purpose of this section, the rate of interest used to determine the minimum nonforfeiture amounts must be an annual rate of interest determined as the lesser of 3 percent per annum or a rate specified in the contract if the rate is calculated in accordance with regulations adopted by the Commissioner, except that at no time may the resulting rate be less than 1 percent per annum.

4. The Commissioner may provide by regulation for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit or for other contracts that the Commissioner determines require adjustment. An adjustment to the calculation of the interest rate used to determine the minimum nonforfeiture amounts authorized under this subsection may not result in an interest rate of less than 1 percent per annum.

Sec. 41. NRS 688A.3633 is hereby amended to read as follows:

688A.3633 ***1.*** For contracts which provide cash surrender benefits, such benefits available before maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid before the time of cash surrender, reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate of not more than 1 percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. Any cash surrender benefit shall not be less than the minimum

nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

2. For annuity contracts issued on or after January 1, 2012, that provide cash surrender benefits:

(a) The cash surrender value on or past the maturity date must be equal to the amount used to determine the annuity benefits;

(b) A surrender charge may not be imposed on or past the maturity date of the annuity contract; and

(c) For annuity contracts with one or more renewable guaranteed periods, a new surrender charge schedule may be imposed for each new guaranteed period if:

(1) The surrender charge is zero at the end of each guaranteed period and remains zero for at least 30 days;

(2) The contract provides for continuation of the contract without surrender charges unless the contract holder specifically elects a new guaranteed period with a new surrender charge schedule; and

(3) The renewal period does not exceed 10 years and the maturity date complies with NRS 688A.3637.

3. An annuity contract that provides for flexible considerations may have separate surrender charge schedules associated with each consideration.

Sec. 42. NRS 688A.3637 is hereby amended to read as follows:

688A.3637 ***1.*** For the purpose of determining the benefits calculated under NRS 688A.3633 and 688A.3635 ~~[, in]~~ ***:***

(a) In the case of annuity contracts ***issued before January 1, 2012,*** under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election is permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's 70th birthday or the 10th anniversary of the contract, whichever is later.

(b) In the case of annuity contracts issued on or after January 1, 2012, the maturity date shall be deemed to be the latest date permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's 70th birthday or the 10th anniversary of the contract, whichever is later.

2. For the purpose of determining the maturity date under this section for an annuity contract that provides for flexible considerations, the 10th anniversary of the contract is determined separately for each consideration.

Sec. 43. NRS 688C.200 is hereby amended to read as follows:

688C.200 1. Upon the filing of an application and payment of all applicable fees, the Commissioner shall investigate the applicant, and issue a license if the Commissioner finds that the applicant:

(a) If a provider of viatical settlements, has set forth a detailed plan of operation;

(b) Is competent and trustworthy and intends to act in good faith in the capacity for which the license is sought;

(c) Has a good reputation in business and, if a natural person, has had experience, training or education which qualifies the applicant in that capacity;

(d) If an organization, provides a certificate of good standing from the state of its domicile; and

(e) If a provider or broker of viatical settlements:

(1) Has included a plan to prevent fraud which satisfies the requirements of NRS 688C.490; and

(2) Has demonstrated evidence of financial responsibility through either:

(I) A surety bond executed and issued by an authorized surety in favor of the State of Nevada, continuous in form and in an amount as determined by the Commissioner, of not less than $250,000; or

(II) A deposit of cash, certificates of deposit, securities or any combination thereof in the amount of $250,000.

2. The Commissioner shall not issue a license to a nonresident unless a written designation of an agent for service of process, or an irrevocable written consent to the commencement of an action against the applicant by service of process upon the Commissioner, accompanies the application.

3. A provider or broker of viatical settlements shall furnish to the Commissioner new or revised information concerning partners, members, officers, holders of more than 10 percent of its stock, and designated employees within 30 days after a change occurs.

4. Notwithstanding any provision of this section to the contrary, the Commissioner shall accept as evidence of financial responsibility proof that financial instruments complying with the requirements of this section have been filed with a state where the applicant is licensed as a ***provider or*** broker of viatical settlements.

5. A surety bond issued for the purposes of this section must specifically authorize recovery by the Commissioner on behalf of any person in this State who sustained damages as a result of:

(a) Erroneous acts;

(b) Failure to act; or

(c) Conviction of:

(1) Fraud; or

(2) Unfair practices,

➥ by the provider or broker of viatical settlements.

6. The Commissioner may request evidence of financial responsibility as described in subparagraph (2) of paragraph (e) of subsection 1 at any time the Commissioner deems necessary.

Sec. 44. NRS 689.175 is hereby amended to read as follows:

689.175 1. The proposed seller, or the appropriate corporate officer of the proposed seller, shall apply in writing to the Commissioner for a seller's certificate of authority, showing:

(a) The proposed seller's name and address, and his or her occupations during the preceding 5 years;

(b) The name and address of the proposed trustee;

(c) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed prepaid contract; and

(d) Such other pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund and accepts it;

(b) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed prepaid contract or items to be supplied under it;

(c) A certified copy of the articles of incorporation and the bylaws of any corporate applicant;

(d) A copy of any other document relating to the proposed seller, trustee, trust, performer or prepaid contract, as required by the Commissioner; ***and***

(e) ~~[A complete set of the fingerprints of the proposed seller, or the appropriate corporate officer of the proposed seller, and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;~~

~~(f) A fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant; and~~

~~(g)]~~ The applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 45. NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number and personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) ~~[Be accompanied by a complete set of the fingerprints of the applicant and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.~~

~~(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.~~

~~(e)]~~ Be accompanied by the statement required pursuant to NRS 689.258.

~~[(f)]~~ ***(d)*** Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c)

of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

4. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

5. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 46. NRS 689.490 is hereby amended to read as follows:

689.490 1. The proposed seller, or the appropriate corporate officer of the seller, shall apply in writing to the Commissioner for a seller's permit, showing:

(a) The proposed seller's name and address and his or her occupations during the preceding 5 years;

(b) The name and address of the proposed trustee;

(c) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed prepaid contract; and

(d) Such other pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund and accepts it;

(b) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed prepaid contract or items to be supplied under it;

(c) A certified copy of the articles of incorporation and the bylaws of any corporate applicant;

(d) A copy of any other document relating to the proposed seller, trustee, trust, performer or prepaid contract, as required by the Commissioner; ***and***

(e) ~~[A complete set of the fingerprints of the proposed seller, or the appropriate corporate officer of the seller, and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;~~

~~(f) A fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant; and~~

~~(g)]~~ The applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those

fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 47. NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) ~~[Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.~~

~~(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.~~

~~(e)]~~ Be accompanied by the statement required pursuant to NRS 689.258.

~~[(f)]~~ ***(d)*** Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

4. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background

and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

5. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 48. NRS 689A.745 is hereby amended to read as follows:

689A.745 1. Except as otherwise provided in subsection 4, each insurer that issues a policy of health insurance in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner in consultation with the State Board of Health.

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a policy of health insurance issued by the insurer.

3. The Commissioner or the State Board of Health may examine the system for resolving complaints established pursuant to subsection 1 at such times as either deems necessary or appropriate.

4. Each insurer that issues a policy of health insurance in this State that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an insured concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~.~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 49. NRS 689B.026 is hereby amended to read as follows:

689B.026 1. Except as otherwise provided in this section, no policy of group health insurance may be delivered or issued for delivery in this state to a group which was formed for the purpose of purchasing one or more policies of group health insurance.

2. A policy of group health insurance may be delivered to a group described in subsection 1 if the Commissioner approves the issuance. The Commissioner shall not grant approval unless the Commissioner finds that:

(a) The benefits of the policy are reasonable in relation to the premiums charged; ~~[and]~~

(b) The group to which the policy is issued is organized and operated in a fiscally sound manner ~~[.]~~ ***; and***

(c) All policy rates and forms are filed with and approved by the Division before marketing to a resident or employer in this State.

3. ~~[Upon approval by the Commissioner, an insurer may exclude or limit the coverage in a policy issued pursuant to this section of any person as to whom evidence of insurability is not satisfactory to the insurer.]~~ ***The Commissioner shall use the provisions of this chapter and chapter 689C of NRS to review insurance products marketed to employers in this State. The Commissioner shall use the provisions of chapter 689A of NRS to review insurance products marketed to natural persons in this State.***

4. The provisions of this section apply to the offering in this state of a policy issued in another state.

Sec. 50. NRS 689B.0285 is hereby amended to read as follows:

689B.0285 1. Except as otherwise provided in subsection 4, each insurer that issues a policy of group health insurance in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner in consultation with the State Board of Health.

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a policy of group health insurance issued by the insurer.

3. The Commissioner or the State Board of Health may examine the system for resolving complaints established pursuant to subsection 1 at such times as either deems necessary or appropriate.

4. Each insurer that issues a policy of group health insurance in this State that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an insured concerning the health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 51. NRS 689B.080 is hereby amended to read as follows:

689B.080 Any insurer authorized to write health insurance in this state, including a nonprofit corporation for hospital, medical or dental services that has a certificate of authority issued pursuant to chapter 695B of NRS, may issue blanket accident and health insurance. No blanket policy, except as provided in subsection ~~[4]~~ ***5*** of NRS 687B.120, may be issued or delivered in

this state unless a copy of the form thereof has been filed in accordance with NRS 687B.120. Every blanket policy must contain provisions which in the opinion of the Commissioner are not less favorable to the policyholder and the individual insured than the following:

1. A provision that the policy, including endorsements and a copy of the application, if any, of the policyholder and the persons insured constitutes the entire contract between the parties, and that any statement made by the policyholder or by a person insured is in the absence of fraud a representation and not a warranty, and that no such statements may be used in defense to a claim under the policy, unless contained in a written application. The insured or the beneficiary or assignee of the insured has the right to make a written request to the insurer for a copy of an application, and the insurer shall, within 15 days after the receipt of a request at its home office or any branch office of the insurer, deliver or mail to the person making the request a copy of the application. If a copy is not so delivered or mailed, the insurer is precluded from introducing the application as evidence in any action based upon or involving any statements contained therein.

2. A provision that written notice of sickness or of injury must be given to the insurer within 20 days after the date when the sickness or injury occurred. Failure to give notice within that time does not invalidate or reduce any claim if it is shown that it was not reasonably possible to give notice and that notice was given as soon as was reasonably possible.

3. A provision that the insurer will furnish to the claimant or to the policyholder for delivery to the claimant such forms as are usually furnished by it for filing proof of loss. If the forms are not furnished before the expiration of 15 days after giving written notice of sickness or injury, the claimant shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

4. A provision that in the case of a claim for loss of time for disability, written proof of the loss must be furnished to the insurer within 90 days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of a claim for any other loss, written proof of the loss must be furnished to the insurer within 90 days after the date of the loss. Failure to furnish such proof within that time does not invalidate or reduce any claim if it is shown that it was not reasonably possible to furnish proof and that the proof was furnished as soon as was reasonably possible.

5. A provision that all benefits payable under the policy other than benefits for loss of time will be payable immediately upon receipt of written proof of loss, and that, subject to proof of loss, all accrued benefits payable under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that

any balance remaining unpaid at the termination of that period will be paid immediately upon receipt of proof.

6. A provision that the insurer at its own expense has the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy where it is not prohibited by law.

7. A provision, if applicable, setting forth the provisions of NRS 689B.035.

8. A provision for benefits for expense arising from care at home or health supportive services if that care or service was prescribed by a physician and would have been covered by the policy if performed in a medical facility or facility for the dependent as defined in chapter 449 of NRS.

9. A provision that no action at law or in equity may be brought to recover under the policy before the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of the policy and that no such action may be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.

Sec. 51.3. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

"Employee leasing company" has the meaning ascribed to it in NRS 616B.670.

Sec. 51.5. NRS 689C.015 is hereby amended to read as follows:

689C.015 Except as otherwise provided in this chapter, as used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 689C.017 to 689C.106, inclusive, ***and section 51.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 51.7. NRS 689C.065 is hereby amended to read as follows:

689C.065 ***1.*** "Eligible employee" means a permanent employee who has a regular working week of 30 or more hours.

2. The term includes a sole proprietor ***,*** ~~[or]~~ a partner of a partnership ~~[,]~~ ***or an employee of an employee leasing company,*** if the sole proprietor ***,*** ~~[or]~~ partner ***or employee of the employee leasing company*** is included as an employee under a health benefit plan of a small employer.

Sec. 51.9. **NRS 689C.111 is hereby amended to read as follows:**

689C.111 1. If an employer was not in existence throughout the entire preceding calendar year, the determination of whether the employer is a small or large employer must be based on the average number of employees reasonably expected to be employed on business days in the current calendar year.

2. Except as otherwise provided by specific statute, the provisions of this chapter that apply to a small employer at the time that a carrier issues a health benefit plan to the small employer pursuant to the provisions of this chapter continue to apply at least until the plan anniversary following the

date on which the small employer no longer meets the requirements of being a small employer.

3. An employee leasing company which has more than 50 employees, including leased employees at client locations, and which sponsors a fully insured health benefit plan for those employees shall be deemed to be a large employer for the purposes of this chapter.

Sec. 52. NRS 689C.156 is hereby amended to read as follows:

689C.156 1. As a condition of transacting business in this State with small employers, a carrier shall actively market to a small employer each health benefit plan which is actively marketed in this State by the carrier to any small employer in this State. The health insurance plans marketed pursuant to this section by the carrier must include, without limitation, a basic health benefit plan and a standard health benefit plan. A carrier shall be deemed to be actively marketing a health benefit plan when it makes available any of its plans to a small employer that is not currently receiving coverage under a health benefit plan issued by that carrier.

2. A carrier shall issue to a small employer any health benefit plan marketed in accordance with this section if the eligible small employer applies for the plan and agrees to make the required premium payments and satisfy the other reasonable provisions of the health benefit plan that are not inconsistent with NRS 689C.015 to 689C.355, inclusive, ***and section 51.3 of this act,*** and 689C.610 to 689C.980, inclusive, except that a carrier is not required to issue a health benefit plan to a self-employed person who is covered by, or is eligible for coverage under, a health benefit plan offered by another employer.

3. If a health benefit plan marketed pursuant to this section provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, the carrier shall provide a system for resolving any complaints of an employee concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~.~~] , ***and sections 102 to 112, inclusive, of this act.***

Sec. 53. NRS 690B.023 is hereby amended to read as follows:

690B.023 If insurance for the operation of a motor vehicle required pursuant to NRS 485.185 is provided by a contract of insurance, the insurer shall:

1. Provide evidence of insurance to the insured on a form approved by the Commissioner. The evidence of insurance must include:

(a) The name and address of the policyholder;

(b) The name and address of the insurer;

(c) ***Vehicle information, consisting of:***

(1) The year, make and complete identification number of the insured vehicle or vehicles; ***or***

(2) The word "Fleet" if the vehicle is covered under a fleet policy written on an any auto basis or blanket policy basis;

(d) The term of the insurance, including the day, month and year on which the policy:

(1) Becomes effective; and

(2) Expires;

(e) The number of the policy;

(f) A statement that the coverage meets the requirements set forth in NRS 485.185; and

(g) The statement "This card must be carried in the insured motor vehicle for production upon demand." The statement must be prominently displayed.

2. Provide new evidence of insurance if:

(a) The information regarding the insured vehicle or vehicles required pursuant to paragraph (c) of subsection 1 no longer is accurate;

(b) An additional motor vehicle is added to the policy;

(c) A new number is assigned to the policy; or

(d) The insured notifies the insurer that the original evidence of insurance has been lost.

Sec. 54. Chapter 690C of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commissioner may refuse to renew or may suspend, limit or revoke a provider's certificate of registration if the Commissioner finds after a hearing thereon, or upon waiver of hearing by the provider, that the provider has:

(a) Violated or failed to comply with any lawful order of the Commissioner;

(b) Conducted business in an unsuitable manner;

(c) Willfully violated or willfully failed to comply with any lawful regulation of the Commissioner; or

(d) Violated any provision of this chapter.

➥ In lieu of such a suspension or revocation, the Commissioner may levy upon the provider, and the provider shall pay forthwith, an administrative fine of not more than $1,000 for each act or violation.

2. The Commissioner shall suspend or revoke a provider's certificate of registration on any of the following grounds if the Commissioner finds after a hearing thereon that the provider:

(a) Is in unsound condition, is being fraudulently conducted, or is in such a condition or is using such methods and practices in the conduct of its business as to render its further transaction of service contracts in this State currently or prospectively injurious to service contract holders or to the public.

(b) Refuses to be examined, or its directors, officers, employees or representatives refuse to submit to examination relative to its affairs, or to produce its books, papers, records, contracts, correspondence or other documents for examination by the Commissioner when required, or refuse to perform any legal obligation relative to the examination.

(c) Has failed to pay any final judgment rendered against it in this State upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within 30 days after the judgment became final or within 30 days after dismissal of an appeal before final determination, whichever date is the later.

3. The Commissioner may, without advance notice or a hearing thereon, immediately suspend the certificate of registration of any provider that has filed for bankruptcy or otherwise been deemed insolvent.

Sec. 55. NRS 690C.170 is hereby amended to read as follows:

690C.170 To be issued a certificate of registration, a provider must comply with one of the following:

1. Purchase a contractual liability insurance policy which insures the obligations of each service contract the provider issues, sells or offers for sale. The contractual liability insurance policy must be issued by an insurer ***which is not an affiliate of the provider and which is*** authorized to transact insurance in this state or pursuant to the provisions of chapter 685A of NRS ~~[.]~~ ***; or***

2. ~~[~~Maintain a reserve account and deposit with the Commissioner security as provided in this subsection. The reserve account must contain at all times an amount of money equal to at least 40 percent of the gross consideration received by the provider for any unexpired service contracts, less any claims paid on those unexpired service contracts. The Commissioner may examine the reserve account at any time. The provider shall also deposit with the Commissioner security in an amount that is equal to $25,000 or 5 percent of the gross consideration received by the provider for any unexpired service contracts, less any claims paid on the unexpired service contracts, whichever is greater. The security must be:

(a) A surety bond issued by a surety company authorized to do business in this state;

(b) Securities of the type eligible for deposit pursuant to NRS 682B.030;

(c) Cash;

(d) An irrevocable letter of credit issued by a financial institution approved by the Commissioner; or

(e) In any other form prescribed by the Commissioner.

3.~~]~~ Maintain, or be a subsidiary of a parent company that maintains, a net worth or stockholders' equity of at least $100,000,000. Upon request, a provider shall provide to the Commissioner a copy of the most recent Form 10-K report or Form 20-F report filed by the provider or parent company of the provider with the Securities and Exchange Commission within the previous year. If the provider or parent company is not required to file those reports with the Securities and Exchange Commission, the provider shall provide to the Commissioner a copy of the most recently audited financial statements of the provider or parent company. If the net worth or stockholders' equity of the parent company of the provider is used to comply with the requirements of this subsection, the parent company must guarantee

to carry out the duties of the provider under any service contract issued or sold by the provider.

Sec. 56. Chapter 691A of NRS is hereby amended by adding thereto a new section to read as follows:

The Commissioner may adopt regulations to carry out the provisions of this chapter.

Sec. 57. NRS 691A.020 is hereby amended to read as follows:

691A.020 1. ~~[Each]~~ ***Except as otherwise provided in subsection 3, each*** insurer which provides ***a policy for a personal line of*** property insurance covering ***a manufactured home or*** mobile ~~[homes]~~ ***home*** in Nevada ***that was manufactured within the immediately preceding 15 years*** shall offer ~~[,]~~ ***to an insured, on a form approved by the Commissioner and*** in addition to any other insurance, ***the option of purchasing*** insurance to pay the ~~[market]~~ ***replacement*** value of the ***manufactured home or*** mobile home in the event of a total loss of the ***manufactured home or*** mobile home ~~[.]~~ ***, including*** ~~*[, without limitation,]*~~ ***the reasonable costs for:***

(a) Transporting and installing the replacement manufactured home or mobile home; and

(b) Debris removal.

2. Nothing in this section requires any insurer to offer any insurance on ***manufactured homes or*** mobile homes at a premium which is not fair and adequate.

3. The provisions of this section do not apply to a policy of insurance placed on a manufactured home or a mobile home by a creditor or lender.

4. As used in this section:

(a) "Manufactured home" has the meaning ascribed to it in NRS 489.113.

(b) "Replacement value" means the amount needed to repair, replace or rebuild a damaged or destroyed manufactured home or mobile home using new materials of similar kind and quality with no deduction for depreciation. The term does not include the value of land.

Sec. 58. NRS 692A.1041 is hereby amended to read as follows:

692A.1041 1. In addition to all other requirements set forth in this title and except as otherwise provided in subsection 4 and NRS 692A.1042, as a condition to doing business in this State, each title agent and title insurer shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 3, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the title agency or title insurer and all escrow officers employed by or associated with the title agent or title insurer.

2. The bond must be in substantially the following form:

Know All Persons by These Presents, that ....., as principal, and ....., as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a violation of

any of the provisions of chapter 692A of NRS, in the sum of ....., lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that: Whereas, the Commissioner of Insurance of the Department of Business and Industry of the State of Nevada has issued the principal a license or certificate of authority as a title agent or title insurer, and the principal is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, the principal's agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 692A of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 692A of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 692A of NRS, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the .....(day) of .....(month) of ...(year), and remains in force until the surety is released from liability by the Commissioner of Insurance or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of Insurance of the Department of Business and Industry of the State of Nevada.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its authorized officers at ....., Nevada, this .....(day) of .....(month) of ...(year).

..... (Seal)
Principal
..... (Seal)
Surety
By .....
Attorney-in-fact
.....
~~[Licensed resident]~~ ***Nevada licensed insurance*** agent

3. Each title agent and title insurer shall deposit a corporate surety bond that complies with the provisions of this section or a substitute form of security that complies with the provisions of NRS 692A.1042 in an amount that:

(a) Is not less than $20,000 or 2 percent of the average collected balance of the trust account or escrow account maintained by the title agent or title insurer pursuant to NRS 692A.250, whichever is greater; and

(b) Is not more than $250,000.

➥ The Commissioner shall determine the appropriate amount of the surety bond or substitute form of security that must be deposited initially by the title agent or title insurer based upon the expected average collected balance of the trust account or escrow account maintained by the title agent or title insurer pursuant to NRS 692A.250. After the initial deposit, the Commissioner shall, on an annual basis, determine the appropriate amount of the surety bond or substitute form of security that must be deposited by the title agent or title insurer based upon the average collected balance of the trust account or escrow account maintained by the title agent or title insurer pursuant to NRS 692A.250.

4. A title agent or title insurer may offset or reduce the amount of the surety bond or substitute form of security that the title agent or title insurer is required to deposit pursuant to subsection 3 by the amount of any of the following:

(a) Cash or securities deposited with the Commissioner in this State pursuant to NRS 680A.140 or 682B.015.

(b) Reserves against unpaid losses and loss expenses maintained pursuant to NRS 692A.150 or 692A.170.

(c) Unearned premium reserves maintained pursuant to NRS 692A.160 or 692A.170.

(d) Fidelity bonds maintained by the title agent or title insurer.

(e) Other bonds or policies of insurance maintained by the title agent or title insurer covering liability for economic losses to customers caused by the title agent or title insurer.

Sec. 59. NRS 692B.070 is hereby amended to read as follows:

692B.070 1. A written application for any permit required under NRS 692B.040 must be filed with the Commissioner. The application must include or be accompanied by:

(a) The name, type and purposes of the insurer, corporation, syndicate, association, firm or organization formed or proposed to be formed or financed;

(b) On forms furnished by the Commissioner, for each person associated or to be associated as incorporator, director, promoter, manager or in other similar capacity in the enterprise, or in the formation of the proposed insurer, corporation, syndicate, association, firm or organization, or in the proposed financing:

(1) The person's name, residential address and qualifications; ***and***

(2) The person's business background and experience for the preceding 10 years; ~~[and~~

~~(3) A complete set of the person's fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;]~~

(c) A full disclosure of the terms of all pertinent understandings and agreements existing or proposed among any persons or entities so associated or to be associated, and a copy of each such agreement;

(d) Executed quadruplicate originals of the articles of incorporation of a proposed domestic stock or mutual insurer;

(e) The original and one copy of the proposed bylaws of a proposed domestic stock or mutual insurer;

(f) The plan according to which solicitations are to be made and a reasonably detailed estimate of all organization and sales expenses to be incurred in the proposed organization and offering;

(g) A copy of any security, receipt or certificate proposed to be offered, and a copy of any proposed subscription agreement or application therefor;

(h) A copy of any prospectus, offering circular, advertising or sales literature or material proposed to be used;

(i) A copy of the proposed form of any escrow agreement required;

(j) A copy of:

(1) The articles of incorporation of any corporation, other than a proposed domestic insurer, proposing to offer its securities, certified by the public officer having custody of the original thereof;

(2) Any syndicate, association, firm, organization or other similar agreement, by whatever name called, if funds for any of the purposes referred to in subsection 1 of NRS 692B.040 are to be secured through the sale of any security, interest or right in or relative to such syndicate, association, firm or organization; and

(3) If the insurer is, or is to be, a reciprocal insurer, the power of attorney and of other agreements existing or proposed affecting subscribers, investors, the attorney-in-fact or the insurer;

(k) If the applicant is a natural person, the statement required pursuant to NRS 692B.193; and

(l) Such additional pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by a deposit of the fees required under NRS 680B.010 for the filing of the application and for issuance of the permit, if granted.

3. If the applicant is a natural person, the application must include the social security number of the applicant.

4. In lieu of a special filing thereof of information required by subsection 1, the Commissioner may accept a copy of any pertinent filing made with the Securities and Exchange Commission relative to the same offering.

5. Each person identified in paragraph (b) of subsection 1 who is a resident of this State must, as part of his or her application and at the person's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the person's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the person's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the person were taken and directly forwarded electronically or by another means to the Central Repository and that the person has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the person's background and to such other law enforcement agencies as the Commissioner deems necessary.

6. The Commissioner may:

(a) Unless the person's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 5, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the person's background as the Commissioner deems necessary.

Sec. 60. NRS 692B.190 is hereby amended to read as follows:

692B.190 1. No person may in this State solicit subscription to or purchase of any security covered by a solicitation permit issued under this chapter, unless then licensed therefor by the Commissioner.

2. Such a license may be issued only to natural persons, and the Commissioner shall not license any person found by the Commissioner to be:

(a) Dishonest or untrustworthy;

(b) Financially irresponsible;

(c) Of unfavorable personal or business history or reputation; or

(d) For any other cause, reasonably unsuited for fulfillment of the responsibilities of such a licensee.

3. The applicant for such a license must file a written application therefor with the Commissioner, on forms and containing inquiries as designated and required by the Commissioner. The application must include or be accompanied by:

(a) The social security number of the applicant;

(b) An endorsement by the holder of the permit under which the securities are proposed to be sold; ***and***

(c) ~~[A complete set of the fingerprints of the applicant on forms furnished by the Commissioner; and~~

~~(d)]~~ The application fee specified in NRS 680B.010.

4. The Commissioner ~~[~~:

~~(a) May forward the complete set of fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(b) Shall~~] ***shall*** promptly cause an investigation to be made of the identity and qualifications of the applicant.

5. The license, if issued, must be for the period of the permit, and must automatically be extended if the permit is extended.

6. The Commissioner shall revoke the license if at any time after issuance the Commissioner has found that the license was obtained through misrepresentation or concealment of facts, or that the licensee is no longer qualified therefor, or that the licensee has misrepresented the securities offered, or has otherwise conducted himself or herself in or with respect to transactions under the license in a manner injurious to the permit holder or to subscribers or prospects or the public.

7. This section does not apply to securities broker-dealers registered as such under the Securities Exchange Act of 1934, or with respect to securities the sale of which is underwritten, other than on a best efforts basis, by such a broker-dealer.

8. With respect to solicitation of subscriptions to or purchase of securities covered by a solicitation permit issued by the Commissioner, the license required by this section is in lieu of a license or permit otherwise required of the solicitor under any other law of this State.

9. An applicant who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

10. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 9, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 61. NRS 692C.370 is hereby amended to read as follows:

692C.370 For the purposes of this chapter, in determining whether or not an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors among others must be considered:

1. The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, ***operating results,*** insurance in force and other appropriate criteria.
2. The extent to which the insurer's business is diversified among the several lines of insurance.
3. The number and size of risks insured in each line of business.
4. The extent of the geographical dispersion of the insurer's insured risks.
5. The nature and extent of the insurer's reinsurance program.
6. The quality, diversification and liquidity of the insurer's investment portfolio.
7. The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.
8. The surplus as regards policyholders maintained by other comparable insurers.
9. The adequacy of the insurer's reserves.
10. The quality and liquidity of investments in ***affiliates or*** subsidiaries made pursuant to NRS 692C.180 to 692C.250, inclusive. The Commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the judgment of the Commissioner such investment so warrants.
11. The quality of the insurer's earnings and the extent to which the reported earnings of the insurer include extraordinary items. As used in this subsection, the term "extraordinary item" means a nonrecurring occurrence or event.

Sec. 62. (Deleted by amendment.)

Sec. 62.5. **NRS 694C.210 is hereby amended to read as follows:**

694C.210 A captive insurer must apply to the Commissioner for a license. The application must include:

1. A certified copy of the charter and bylaws of the captive insurer;
2. A pro forma financial statement for the captive insurer that has been prepared by a certified public accountant ~~[;]~~ ***or an actuary authorized by the Division to conduct business in this State;***

3. Any other statements or documents that the Commissioner requires to be filed with the application;

4. Evidence of:

(a) The amount and liquidity of its assets relative to the risks to be assumed by the captive insurer;

(b) The expertise, experience and character of the persons who will manage the captive insurer;

(c) The overall soundness of the plan of operation of the captive insurer; and

(d) The adequacy of the programs of the captive insurer providing for loss prevention by its parent or member organizations, as applicable; and

5. Such other information deemed to be relevant by the Commissioner in ascertaining whether the proposed captive insurer will be able to meet its policy obligations.

Sec. 63. NRS 694C.330 is hereby amended to read as follows:

694C.330 Except as otherwise provided in this section, a captive insurer shall pay dividends out of, or make any other distributions from, its capital or surplus, or both, in accordance with the provisions set forth in NRS ***692C.370,*** 693A.140, 693A.150 and 693A.160. A captive insurer shall not pay dividends out of, or make any other distribution with respect to, its capital or surplus, or both, in violation of this section unless the captive insurer has obtained the prior approval of the Commissioner to make such a payment or distribution.

Sec. 64. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before ~~[March 1]~~ ***June 30*** of each year, a captive insurer shall submit to the Commissioner a report of its financial condition, as prepared by a certified public accountant. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer shall file its report in the form required by NRS ~~[680A.265.]~~ ***680A.270.*** The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted:

(a) The annual report is due not later than ~~[60]~~ ***180*** days after the end of each such fiscal year; and

(b) The pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide

sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

3. Any captive insurer failing, without just cause beyond the reasonable control of the captive insurer, to file its annual statement as required by subsection 1 shall pay a penalty of $100 for each day the captive insurer fails to file the report, but not to exceed an aggregate amount of $3,000, to be recovered in the name of the State of Nevada by the Attorney General.

4. Any director, officer, agent or employee of a captive insurer who subscribes to, makes or concurs in making or publishing, any annual or other statement required by law, knowing the same to contain any material statement which is false, is guilty of a gross misdemeanor.

Sec. 64.5. **NRS 694C.410 is hereby amended to read as follows:**

694C.410 1. Except as otherwise provided in this section, at least once every 3 years, and at such other times as the Commissioner determines necessary, the Commissioner, or a designee of the Commissioner, shall visit each captive insurer and thoroughly inspect and examine the affairs of the captive insurer to ascertain:

(a) The financial condition of the captive insurer;

(b) The ability of the captive insurer to fulfill its obligations; and

(c) Whether the captive insurer has complied with the provisions of this chapter and the regulations adopted pursuant thereto.

2. Upon the application of a captive insurer, the Commissioner may conduct the visits required pursuant to subsection 1 every 5 years if the captive insurer conducts comprehensive annual audits:

(a) The scope of which is satisfactory to the Commissioner; and

(b) Which are conducted by an independent auditor appointed by the Commissioner.

3. ***The provisions of subsections 1 and 2 do not apply to a pure captive insurer. The Commissioner may conduct an examination of a pure captive insurer at any reasonable time to ascertain:***

(a) The financial condition of the pure captive insurer;

(b) The ability of the pure captive insurer to fulfill its obligations; and

(c) Whether the pure captive insurer has complied with the provisions of this chapter and the regulations adopted pursuant thereto.

4. The Commissioner may contract to obtain legal, financial and examination services from outside the Division to conduct the examination and make recommendations to the Commissioner. The cost of the examination must be paid to the Commissioner by the captive insurer.

~~[4.]~~ ***5.*** The provisions of NRS 679B.230 to 679B.287, inclusive, apply to examinations conducted pursuant to this section.

Sec. 65. NRS 695B.380 is hereby amended to read as follows:

695B.380 1. Except as otherwise provided in subsection 4, each insurer that issues a contract for hospital or medical services in this State shall establish a system for resolving any complaints of an insured concerning

health care services covered under the policy. The system must be approved by the Commissioner in consultation with the State Board of Health.

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a contract for hospital or medical services issued by the insurer.

3. The Commissioner or the State Board of Health may examine the system for resolving complaints established pursuant to subsection 1 at such times as either deems necessary or appropriate.

4. Each insurer that issues a contract specified in subsection 1 shall, if the contract provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, provide a system for resolving any complaints of an insured concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~.~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 65.5. ~~[~~NRS 695C.180 is hereby amended to read as follows:

695C.180 1. ~~[~~No~~]~~ *Except as otherwise provided in subsection 3, no* schedule of charges for enrollee coverage for health care services or amendment thereto may be used in conjunction with any health care plan until a copy of ~~[~~such~~]~~ *the* schedule or amendment ~~[~~thereto~~]~~ has been filed with and approved by the Commissioner.

2. Such charges may be established in accordance with actuarial principles for various categories of enrollees. ~~[~~However the~~]~~ *The* charges ~~[~~shall~~]~~ *must* not be excessive, inadequate ~~[~~nor~~]~~ *or* unfairly discriminatory. A certification by a qualified actuary to the adequacy of the charges ~~[~~shall~~]~~ *must* accompany the filing along with adequate supporting information.

3. The provisions of this section do not apply to health insurance coverage offered through a group health plan maintained by a large employer. As used in this subsection, "large employer" has the meaning ascribed to it in 42 U.S.C. § 18024(b)(1).] **(Deleted by amendment.)**

Sec. 66. NRS 695C.260 is hereby amended to read as follows:

695C.260 Each health maintenance organization shall establish:

1. A system for resolving complaints which complies with the provisions of NRS 695G.200 to 695G.230, inclusive; and

2. A system for conducting external reviews of ~~[~~final~~]~~ adverse determinations that complies with the provisions of NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive ~~.~~ ***, of this act.***

Sec. 67. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if the Commissioner finds that any of the following conditions exist:

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

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

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

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

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

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

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

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

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

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

(2) Conducting external reviews of ~~[~~final~~]~~ adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive ~~[~~,~~]~~ ***, of this act;***

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

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

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

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

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

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts,

unless those groups or persons were contracted for before the date of suspension.

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

Sec. 68. NRS 695E.110 is hereby amended to read as follows:

695E.110 "Risk retention group" means any corporation or association with limited liability that is formed under the laws of any state, Bermuda or the Cayman Islands:

1. Whose primary activity consists of assuming and spreading all or any portion of the exposure of its ***corporation or association*** members to liability;

2. Which is organized primarily to conduct the activity described in subsection 1;

3. Which:

(a) Is chartered and licensed as a liability insurer and authorized to transact insurance under the laws of any state; or

(b) Before January 1, 1985, was chartered or licensed and authorized to transact insurance under the laws of Bermuda or the Cayman Islands and, before that date, had certified to the Commissioner of Insurance of at least one state that it satisfied the state's requirements for capitalization, except that such a group is considered to be a risk retention group only if it has been engaged in business continuously since that date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability;

4. Which does not exclude any person from membership in the group solely to provide for members of the group a competitive advantage over an excluded person;

5. Which has as its:

(a) ~~[~~Members~~]~~ ***Owners*** only persons who ~~[~~have an ownership interest in the group and who are provided insurance by~~]~~ ***comprise the membership of*** the risk retention group ~~[~~:~~]~~ ***and who are provided insurance by the risk retention group;*** or

(b) Sole owner an organization which has as its:

(1) Members only persons who comprise the membership of the risk retention group; and

(2) Owners only persons who comprise the membership of the risk retention group and who are provided insurance by the group;

6. Whose members are engaged in businesses or activities similar or related with respect to the liability to which they are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations;

7. Whose activities do not include the provision of insurance other than:

(a) Liability insurance for assuming and spreading all or any portion of the liability of the members of the group; and

(b) Reinsurance with respect to the liability of any other risk retention group, or any member of such a group, that is engaged in a business or activity such that the other group or member meets the requirements of subsection 6 for membership in the risk retention group that provides reinsurance; and

8. The name of which includes the phrase "risk retention group."

Sec. 69. NRS 695F.230 is hereby amended to read as follows:

695F.230 1. Each prepaid limited health service organization shall establish a system for the resolution of written complaints submitted by enrollees and providers.

2. The provisions of subsection 1 do not prohibit an enrollee or provider from filing a complaint with the Commissioner or limit the Commissioner's authority to investigate such a complaint.

3. Each prepaid limited health service organization that issues any evidence of coverage that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an enrollee or subscriber concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 70. Chapter 695G of NRS is hereby amended by adding thereto the provisions set forth as sections 71 to 112, inclusive, of this act.

Sec. 71. (Deleted by amendment.)

Sec. 72. (Deleted by amendment.)

Sec. 73. (Deleted by amendment.)

Sec. 74. (Deleted by amendment.)

Sec. 75. (Deleted by amendment.)

Sec. 76. (Deleted by amendment.)

Sec. 77. (Deleted by amendment.)

Sec. 78. (Deleted by amendment.)

Sec. 79. ***"Benefits" means those health care services to which a covered person is entitled under the terms of a health benefit plan.***

Sec. 80. ***"Covered person" means a policyholder, subscriber, enrollee or other person participating in a health benefit plan.***

Sec. 81. (Deleted by amendment.)

Sec. 82. (Deleted by amendment.)

Sec. 83. (Deleted by amendment.)

Sec. 84. (Deleted by amendment.)

Sec. 85. (Deleted by amendment.)

Sec. 86. (Deleted by amendment.)

Sec. 87. (Deleted by amendment.)

Sec. 88. ***"Health benefit plan" means a policy, contract, certificate or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services.***

Sec. 89. (Deleted by amendment.)

Sec. 90. (Deleted by amendment.)

Sec. 91. ***"Health care services" means services for the diagnosis, prevention, treatment, care or relief of a health condition, illness, injury or disease.***

Sec. 92. ***"Health carrier" means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including, without limitation, a sickness and accident health insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health care services.***

Sec. 93. (Deleted by amendment.)

Sec. 94. ***"Medical or scientific evidence" means evidence found in the following sources:***

1. Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

2. Peer-reviewed medical literature, including literature relating to therapies reviewed and approved by a qualified institutional review board, biomedical compendia and other medical literature that meet the criteria of the National Library of Medicine of the National Institutes of Health for indexing in Index Medicus (MEDLINE) and Elsevier for indexing in Excerpta Medica (EMBASE);

3. Medical journals recognized by the Secretary of Health and Human Services pursuant to section 1861(t)(2) of the Social Security Act, 42 U.S.C. § 1395x;

4. The following standard reference compendia:

(a) AHFS Drug Information published by the American Society of Health-System Pharmacists;

(b) Drug Facts and Comparisons published by Wolter Kluwers Health;

(c) Accepted Dental Therapeutics published by the American Dental Association; and

(d) The United States Pharmacopoeia's Drug Quality and Information Program;

5. Findings, studies or research conducted by or under the auspices of the Federal Government and nationally recognized federal research institutes, including, without limitation:

(a) The Agency for Healthcare Research and Quality;

(b) The National Institutes of Health;

(c) The National Cancer Institute;

(d) The National Academy of Sciences of the National Academies;

(e) The Centers for Medicare and Medicaid Services;

(f) The Food and Drug Administration; and

(g) Any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health care services; or

6. Any other source of medical or scientific evidence that is comparable to the sources listed in subsections 1 to 5, inclusive.

Sec. 95. (Deleted by amendment.)

Sec. 96. (Deleted by amendment.)

Sec. 97. (Deleted by amendment.)

Sec. 98. (Deleted by amendment.)

Sec. 99. (Deleted by amendment.)

Sec. 100. (Deleted by amendment.)

Sec. 101. *"Utilization review organization" means an entity designated by a health carrier to conduct utilization reviews.*

Sec. 102. *1. Except as otherwise provided in subsection 2, the provisions of NRS 695G.200 to 695G.310, inclusive, and sections 102 to 112, inclusive, of this act apply to all health carriers.*

2. The provisions of subsection 1 do not apply to:

(a) A policy or certificate that provides only coverage for:

(1) A specified disease or accident;

(2) Accidents;

(3) Credit dental;

(4) Disability income;

(5) Hospital indemnity;

(6) Long-term care insurance;

(7) Vision care; or

(8) Any other limited supplemental benefit;

(b) A Medicare supplement policy of insurance, as defined in regulations adopted by the Commissioner;

(c) Coverage under a plan through Medicare, Medicaid or the Federal Employees Health Benefits Program, FEHBP, 5 U.S.C. §§ 8901 et seq.;

(d) Any coverage issued under the Civilian Health and Medical Program of the Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq., and any coverage issued as supplemental to that coverage;

(e) Any coverage issued as supplemental to liability insurance;

(f) Workers' compensation or similar insurance;

(g) Automobile medical payment insurance; or

(h) Any insurance under which benefits are payable with or without regard to fault, whether written on a group, blanket or individual basis.

Sec. 103. *1. A health carrier shall notify the covered person in writing of the covered person's right to request an external review to be conducted pursuant to NRS 695G.241 to 695G.310, inclusive, and sections 102 to 112, inclusive, of this act and include the appropriate statements and information set forth in subsection 2 at the same time the health carrier sends written notice of an adverse determination upon completion of the health carrier's utilization review process set forth in NRS 683A.375 to 683A.379, inclusive, and the regulations adopted pursuant thereto.*

2. As part of the written notice required pursuant to subsection 1, a health carrier shall include the following, or substantially equivalent, language:

> *We have denied your request for the provision of or payment for a health care service or course of treatment. You may have the right to have our decision reviewed by health care professionals who have no association with us if our decision involved making a judgment as to the medical necessity, appropriateness, health care setting, level of care or effectiveness of the health care service or treatment you requested by submitting a request for external review to the Office for Consumer Health Assistance.*

3. The Commissioner may prescribe by regulation the form and content of the notice required pursuant to this section.

4. The health carrier shall include in the notice required pursuant to subsection 1 a statement informing the covered person that:

(a) If the covered person has a medical condition where the timeframe for completion of an expedited review of a grievance involving an adverse determination set forth in NRS 695G.200 to 695G.230, inclusive, would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, the covered person or the covered person's authorized representative may, at the same time the covered person or the covered person's authorized representative files a request for an expedited review of a grievance involving an adverse determination as set forth in NRS 695G.210, file a request for an expedited external review to be conducted pursuant to NRS 695G.271 and section 107 of this act if the adverse determination involves a denial of coverage based on a determination that the recommended or requested health care service or treatment is experimental or investigational and the covered person's treating physician certifies in writing that the recommended or requested health care service or treatment that is the subject of the adverse determination would be significantly less effective if not promptly initiated, and the independent review organization assigned to conduct the expedited external review will determine whether

the covered person will be required to complete the expedited review of the grievance before conducting the expedited external review; and

(b) The covered person or the covered person's authorized representative may file a grievance under the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive, but if the health carrier has not issued a written decision to the covered person or the covered person's authorized representative within 30 days after the date on which the covered person or the covered person's authorized representative filed the grievance with the health carrier and the covered person or the covered person's authorized representative has not requested or agreed to a delay, the covered person or the covered person's authorized representative may file a request for external review pursuant to NRS 695G.251 and shall be considered to have exhausted the health carrier's internal grievance process.

5. In addition to the information required to be provided pursuant to subsection 1, the health carrier shall include a copy of the description of both the standard and expedited external review procedures the health carrier is required to provide pursuant to section 112 of this act, highlighting the provisions in the external review procedures that give the covered person or the covered person's authorized representative the opportunity to submit additional information and including any forms used to process an external review.

6. As part of any forms provided pursuant to subsection 3, the health carrier shall include an authorization form, or other document approved by the Commissioner that complies with the requirements of 45 C.F.R. § 164.508, by which the covered person, for purposes of conducting an external review, authorizes the health carrier and the covered person's treating health care provider to disclose protected health information, including medical records, concerning the covered person that are pertinent to the external review.

7. As used in this section, "protected health information" has the meaning ascribed to it in 45 C.F.R. § 160.103.

Sec. 104. ***1. Except for a request for an expedited external review as set forth in NRS 695G.271 or section 107 of this act, all requests for external review must be made in writing to the Office for Consumer Health Assistance.***

2. The Commissioner may prescribe by regulation the form and content of requests for external review required to be submitted pursuant to this section.

3. A covered person or the covered person's authorized representative may submit a request for an external review of an adverse determination.

Sec. 105. (Deleted by amendment.)

Sec. 106. (Deleted by amendment.)

Sec. 107. ***1. Within 4 months after receipt of a notice of an adverse determination pursuant to section 103 of this act that involves a denial of***

coverage based on a determination that the health care service or treatment recommended or requested is experimental or investigational, a covered person or the covered person's authorized representative may file a request for external review with the Office for Consumer Health Assistance pursuant to this section.

2. A covered person or the covered person's authorized representative may make an oral request for an expedited external review of the adverse determination pursuant to section 103 of this act that involves a denial of coverage based on a determination that the health care service or treatment recommended or requested is experimental or investigational if the covered person's treating physician certifies, in writing, that the recommended or requested health care service or treatment that is the subject of the request would be significantly less effective if not promptly initiated.

3. Upon receipt of a request for an expedited external review pursuant to subsection 2, the Office for Consumer Health Assistance shall immediately notify the health carrier.

4. Immediately upon notice of a request for an expedited external review pursuant to subsection 2, the health carrier shall determine whether the request meets the requirements for review set forth in subsection 12. The health carrier shall immediately notify the Office for Consumer Health Assistance and the covered person and, if applicable, the covered person's authorized representative, of its determination regarding eligibility.

5. The Commissioner may specify the form for the notice of initial determination pursuant to subsection 4 and any supporting information to be included in the notice.

6. The notice of initial determination required by subsection 4 must include a statement that a health carrier's initial determination that a request which is ineligible for external review may be appealed to the Office for Consumer Health Assistance.

7. The Office for Consumer Health Assistance may determine that a request for an expedited external review is eligible for external review pursuant to subsection 12 and require that it be referred for expedited external review notwithstanding a health carrier's initial determination that the request is ineligible.

8. In making a determination pursuant to subsection 7, the decision of the Office for Consumer Health Assistance must be made in accordance with the terms of the covered person's health benefit plan and is subject to all applicable provisions of the external review process.

9. Upon receipt of the notice that the request for expedited external review meets the requirements for review, the Office for Consumer Health Assistance shall immediately assign an independent review organization to conduct the expedited external review from the list of approved independent review organizations compiled and maintained by the

Commissioner pursuant to section 8 of this act and notify the health carrier of the name of the assigned independent review organization.

10. Upon receipt of the notice pursuant to subsection 9, the health carrier or utilization review organization shall provide or transmit any documents and information considered in making the adverse determination to the assigned independent review organization electronically or by telephone or facsimile, or any other available expeditious method.

11. Except as otherwise provided in subsection 3, within 1 business day after receipt of a request for external review pursuant to subsection 1, the Office for Consumer Health Assistance shall notify the health carrier.

12. Within 5 business days after receipt of the notice sent pursuant to subsection 11, the health carrier shall conduct and complete a preliminary review of the request to determine whether:

(a) The person is or was a covered person in the health benefit plan at the time the health care service or treatment was recommended or requested or, in the case of a retrospective review, was a covered person in the health benefit plan at the time the health care service or treatment was provided;

(b) The recommended or requested health care service or treatment that is the subject of the adverse determination:

(1) Would be a covered benefit under the covered person's health benefit plan but for the health carrier's determination that the health care service or treatment is experimental or investigational for a particular medical condition; and

(2) Is not explicitly listed as an excluded benefit under the covered person's health benefit plan;

(c) The covered person's treating physician has certified that one of the following situations is applicable:

(1) Standard health care services or treatments have not been effective in improving the condition of the covered person;

(2) Standard health care services or treatments are not medically appropriate for the covered person; or

(3) There is no available standard health care service or treatment covered by the health carrier that is more beneficial than the recommended or requested health care service or treatment described in paragraph (d);

(d) The covered person's treating physician:

(1) Has recommended a health care service or treatment that the physician certifies, in writing, is likely to be more beneficial to the covered person, in the physician's opinion, than any available standard health care services or treatments; or

(2) Who is a licensed, board certified or board eligible physician qualified to practice in the area of medicine appropriate to treat the covered person's condition, has certified in writing that scientifically valid studies using accepted protocols demonstrate that the health care service or

treatment requested by the covered person that is the subject of the adverse determination is likely to be more beneficial to the covered person than any available standard health care services or treatments;

(e) The covered person has exhausted the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive, unless the covered person is not required to exhaust the health carrier's internal grievance process; and

(f) The covered person has provided all the information and forms required by the Office for Consumer Health Assistance to process an external review, including the release form provided pursuant to subsection 6 of section 103 of this act.

13. Within 1 business day after completion of the preliminary review, the health carrier shall notify the Office for Consumer Health Assistance and the covered person, and, if applicable, the covered person's authorized representative, in writing, whether the request is:

(a) Complete;

(b) Eligible for external review;

(c) Not complete, in which case the health carrier shall include in the notice the information or materials that are needed to make the request complete; or

(d) Not eligible for external review, in which case the health carrier shall include in the notice the reasons for its ineligibility.

14. The Commissioner may specify the form for the notice of initial determination pursuant to subsection 13 and any supporting information to be included in the notice.

15. The notice of initial determination must include a statement informing the covered person and, if applicable, the covered person's authorized representative that a health carrier's initial determination that a request which is ineligible for external review may be appealed to the Office for Consumer Health Assistance.

16. The Office for Consumer Health Assistance may determine that a request is eligible for external review pursuant to subsection 12 and require that it be referred for external review notwithstanding a health carrier's initial determination that the request is ineligible.

17. In making a determination pursuant to subsection 16, the decision of the Office for Consumer Health Assistance must be made in accordance with the terms of the covered person's health benefit plan and is subject to all applicable provisions of the external review process.

18. When a health carrier determines that a request is eligible for external review pursuant to subsection 12, the health carrier shall notify the Office for Consumer Health Assistance and the covered person and, if applicable, the covered person's authorized representative.

19. Within 1 business day after receipt of the notice from the health carrier that the external review request is eligible for external review

pursuant to subsection 18, the Office for Consumer Health Assistance shall:

(a) Assign an independent review organization from the list of approved independent review organizations compiled and maintained by the Commissioner pursuant to section 8 of this act to conduct the external review;

(b) Notify the health carrier of the name of the assigned independent review organization; and

(c) Notify in writing the covered person and, if applicable, the covered person's authorized representative that the request is eligible for external review and provide the name of the assigned independent review organization.

20. The Office for Consumer Health Assistance shall include in the notice provided to the covered person and, if applicable, the covered person's authorized representative pursuant to subsection 19 a statement that the covered person or the covered person's authorized representative may submit in writing to the assigned independent review organization within 5 business days after receipt of the notice provided pursuant to subsection 19 additional information that the independent review organization shall consider when conducting the external review. The independent review organization may accept and consider additional information submitted after the 5 business days have elapsed.

21. Within 1 business day after receipt of the notice of assignment to conduct the external review pursuant to subsection 19, the assigned independent review organization shall:

(a) Select one or more clinical reviewers to conduct the external review, as it determines is appropriate; and

(b) Based on the opinion of the clinical reviewer, or opinions if more than one clinical reviewer has been selected to conduct the external review, make a decision to uphold or reverse the adverse determination.

22. In selecting clinical reviewers pursuant to paragraph (a) of subsection 21, the assigned independent review organization shall select health care professionals who meet the minimum qualifications described in section 9 of this act and through clinical experience in the past 3 years, are experts in the treatment of the covered person's condition and knowledgeable about the recommended or requested health care service or treatment.

23. The covered person, the covered person's authorized representative, if applicable, and the health carrier may not choose or control the choice of the health care professionals to be selected to conduct the external review.

24. In accordance with subsections 37 to 41, inclusive, each clinical reviewer shall provide a written opinion to the assigned independent review organization regarding whether the recommended or requested health care service or treatment should be covered.

25. In reaching an opinion, clinical reviewers are not bound by any decisions or conclusions reached during the health carrier's utilization review process as set forth in NRS 683A.375 to 683A.379, inclusive, or the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive.

26. Within 5 business days after receipt of the notice pursuant to subsection 19, the health carrier or utilization review organization shall provide to the assigned independent review organization any documents and information considered in making the adverse determination.

27. Except as otherwise provided in subsection 28, failure by the health carrier or utilization review organization to provide the documents and information within the time specified in subsection 26 must not delay the conduct of the external review.

28. If the health carrier or utilization review organization fails to provide the documents and information within the time specified in subsection 26, the assigned independent review organization may terminate the external review and make a decision to reverse the adverse determination.

29. If the independent review organization elects to terminate the external review and reverse the adverse determination pursuant to subsection 28, the independent review organization shall immediately notify the covered person, the covered person's authorized representative, if applicable, the health carrier and the Office for Consumer Health Assistance.

30. Each clinical reviewer selected pursuant to subsection 21 shall review all the information and documents received pursuant to subsections 20 and 26.

31. The assigned independent review organization shall forward any information submitted by the covered person or the covered person's authorized representative pursuant to subsection 20 to the health carrier within 1 business day after receipt of the information.

32. Upon receipt of the information required to be forwarded pursuant to subsection 31, the health carrier may reconsider the adverse determination that is the subject of the external review.

33. Reconsideration by the health carrier of its adverse determination pursuant to subsection 32 must not delay or terminate the external review.

34. Except as otherwise provided in subsection 28, the external review may only be terminated before completion if the health carrier decides, upon completion of its reconsideration, to reverse its adverse determination and provide coverage or payment for the recommended or requested health care service or treatment that is the subject of the adverse determination.

35. If the health carrier reverses its adverse determination pursuant to subsection 28, the health carrier shall immediately notify the covered person, the covered person's authorized representative, if applicable, the

assigned independent review organization and the Office for Consumer Health Assistance in writing of its decision.

36. The assigned independent review organization shall terminate the external review upon receipt of the notice from the health carrier pursuant to subsection 35.

37. Except as otherwise provided in subsection 39, within 20 days after being selected in accordance with subsection 21 to conduct the external review, each clinical reviewer shall provide an opinion to the assigned independent review organization pursuant to subsection 41 regarding whether the recommended or requested health care service or treatment should be covered.

38. Except for an opinion provided pursuant to subsection 39, each clinical reviewer's opinion must be in writing and include the following:

(a) A description of the covered person's medical condition;

(b) A description of the indicators relevant to determine if there is sufficient evidence to demonstrate that the recommended or requested health care service or treatment is more likely to be beneficial to the covered person than any available standard health care services or treatments and the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of available standard health care services or treatments;

(c) A description and analysis of any medical or scientific evidence considered in reaching the opinion;

(d) A description and analysis of any evidence-based standards used as a basis for the opinion; and

(e) Information concerning whether the reviewer's rationale for the opinion is based on the provisions of subsection 41.

39. For an expedited external review, each clinical reviewer shall provide an opinion orally or in writing to the assigned independent review organization as expeditiously as the covered person's medical condition or circumstances requires, but in no event not more than 5 calendar days after being selected in accordance with subsection 21.

40. If the opinion provided pursuant to subsection 39 was not in writing, within 48 hours after providing that notice, the clinical reviewer shall provide written confirmation of the opinion to the assigned independent review organization and include the information required pursuant to subsection 38.

41. In addition to the documents and information provided pursuant to subsections 10 and 26, each clinical reviewer, to the extent the information or documents are available and the reviewer considers them appropriate, shall consider the following in reaching an opinion:

(a) The covered person's medical records;

(b) The attending health care professional's recommendation;

(c) Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person, the

covered person's authorized representative or the covered person's treating provider;

(d) The terms of coverage under the covered person's health benefit plan with the health carrier to ensure that, but for the health carrier's determination that the recommended or requested health care service or treatment that is the subject of the opinion is experimental or investigational, the reviewer's opinion is not contrary to the terms of coverage under the health benefit plan; and

(e) Whether:

(1) The recommended or requested health care service or treatment has been approved by the Food and Drug Administration, if applicable, for the condition; or

(2) Medical or scientific evidence or evidence-based standards demonstrate that the expected benefits of the recommended or requested health care service or treatment is more likely to be beneficial to the covered person than any available standard health care services or treatments and the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of available standard health care services or treatments.

42. Except as otherwise provided in subsection 43, within 20 days after receipt of the opinion of each clinical reviewer pursuant to subsection 41, the assigned independent review organization, in accordance with subsection 45 or 46, shall make a decision and provide written notice of the decision to the covered person, the covered person's authorized representative, if applicable, the health carrier and the Office for Consumer Health Assistance and include the information required pursuant to subsection 50.

43. For an expedited external review, within 48 hours after receipt of the opinion of each clinical reviewer pursuant to subsection 41, the assigned independent review organization, in accordance with subsection 45 or 46, shall make a decision and provide notice of the decision orally or in writing to the covered person, the covered person's authorized representative, if applicable, the health carrier and the Office for Consumer Health Assistance.

44. If the notice provided pursuant to subsection 43 was not in writing, within 48 hours after providing that notice, the assigned independent review organization shall provide written confirmation of the decision to the covered person, the covered person's authorized representative, if applicable, the health carrier and the Office for Consumer Health Assistance and include the information required pursuant to subsection 50.

45. If a majority of the clinical reviewers recommend that the recommended or requested health care service or treatment should be covered, the independent review organization shall make a decision to reverse the health carrier's adverse determination.

46. If a majority of the clinical reviewers recommend that the recommended or requested health care service or treatment should not be covered, the independent review organization shall make a decision to uphold the health carrier's adverse determination.

47. If the clinical reviewers are evenly split as to whether the recommended or requested health care service or treatment should be covered, the independent review organization shall obtain the opinion of an additional clinical reviewer in order for the independent review organization to make a decision based on the opinions of a majority of the clinical reviewers pursuant to subsection 45 or 46.

48. The additional clinical reviewer selected pursuant to subsection 47 shall use the same information to reach an opinion as the clinical reviewers who have already submitted their opinions pursuant to subsection 41.

49. The selection of an additional clinical reviewer pursuant to subsection 47 must not extend the time within which the assigned independent review organization is required to make a decision based on the opinions of the clinical reviewers pursuant to subsection 42.

50. The independent review organization shall include in the notice provided pursuant to subsection 42 or 44:

(a) A general description of the reason for the request for external review;

(b) The written opinion of each clinical reviewer, including the recommendation of each clinical reviewer as to whether the recommended or requested health care service or treatment should be covered and the rationale for the reviewer's recommendation;

(c) The date the independent review organization was assigned by the Office for Consumer Health Assistance to conduct the external review;

(d) The date on which the external review was conducted;

(e) The date of the decision;

(f) The principal reason or reasons for the decision; and

(g) The rationale for the decision.

51. Upon receipt of a notice of a decision pursuant to subsection 42 or 44 reversing the adverse determination, the health carrier shall immediately approve coverage of the recommended or requested health care service or treatment that was the subject of the adverse determination.

52. The assignment by the Office for Consumer Health Assistance of an approved independent review organization to conduct an external review in accordance with this section must be done on a random basis among those approved independent review organizations qualified to conduct the particular external review based on the nature of the health care service or treatment that is the subject of the adverse determination and other circumstances, including concerns regarding conflicts of interest pursuant to subsection 4 of section 9 of this act.

53. As used in this section:

(a) "Best evidence" means evidence based on:

(1) Randomized clinical trials;

(2) If randomized clinical trials are not available, cohort studies or case-control studies;

(3) If the methods described in subparagraphs (1) and (2) are not available, case series; or

(4) If the methods described in subparagraphs (1), (2) and (3) are not available, expert opinion.

(b) "Evidence-based standard" means the conscientious, explicit and judicious use of the current best evidence based on the overall systematic review of research in making decisions about the care of an individual patient.

(c) "Randomized clinical trial" means a controlled, prospective study of patients who have been randomized into an experimental group and a control group at the beginning of the study with only the experimental group of patients receiving a specific intervention, which includes study of the groups for variables and anticipated outcomes over time.

Sec. 108. (Deleted by amendment.)

Sec. 109. (Deleted by amendment.)

Sec. 110. ***1. An independent review organization assigned pursuant to NRS 695G.251 or 695G.271 or section 107 of this act to conduct an external review shall maintain written records, aggregated for each state and for each health carrier, on all requests for which it conducted an external review during a calendar year and, upon request, submit a report to the Office for Consumer Health Assistance in a format specified by the Commissioner.***

2. The report must include, aggregated for each state and for each health carrier:

(a) The total number of requests for external review;

(b) The number of requests for external review resolved and, of those resolved, the number upholding the adverse determination and the number reversing the adverse determination;

(c) The average length of time for resolution;

(d) A summary of the types of coverages or cases for which an external review was sought;

(e) The number of external reviews that were terminated as the result of a reconsideration by the health carrier of its adverse determination after receipt of additional information from the covered person or the covered person's authorized representative pursuant to subsection 4 of NRS 695G.251 and subsection 32 of section 107 of this act; and

(f) Any other information the Office for Consumer Health Assistance may request or require.

3. An independent review organization shall retain the written records required pursuant to this section for at least 3 years.

4. Each health carrier shall maintain written records, aggregated for each state and for each type of health benefit plan offered by the health carrier, on all requests for external review for which the health carrier receives notice from the Office for Consumer Health Assistance and, upon request, submit a report to the Office for Consumer Health Assistance in a format specified by the Commissioner.

5. The report must include, aggregated for each state and for each type of health benefit plan:

(a) The total number of requests for external review;

(b) Of the total number of requests for external review, the number of requests determined to be eligible for external review; and

(c) Any other information the Office for Consumer Health Assistance may request or require.

6. A health carrier shall retain the written records required pursuant to this section for at least 3 years.

Sec. 111. (Deleted by amendment.)

Sec. 112. ***1. A health carrier shall include a description of the external review procedures in or attached to the policy, certificate, membership booklet, outline of coverage or other evidence of coverage it provides to covered persons.***

2. The description required by subsection 1 must be in a format prescribed by the Commissioner.

3. The description required by subsection 1 must include a statement that informs the covered person of the right of the covered person to file a request for an external review of an adverse determination with the Office for Consumer Health Assistance. The statement may explain that external review is available when the adverse determination involves an issue of medical necessity, appropriateness, health care setting, level of care or effectiveness. The statement must include the telephone number and address of the Office for Consumer Health Assistance.

4. In addition to the requirements of subsection 3, the statement must inform the covered person that, when filing a request for an external review, the covered person will be required to authorize the release of any medical records of the covered person that may be required to be reviewed for the purpose of reaching a decision on the external review.

Sec. 113. NRS 695G.010 is hereby amended to read as follows:

695G.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~[695G.020]~~ ***695G.012*** to 695G.080, inclusive, ***and sections 71 to 101, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 114. NRS 695G.012 is hereby amended to read as follows:

695G.012 "Adverse determination" means a determination ~~[of a managed care organization to deny all or part of a service or procedure that is proposed or being provided to an insured on the basis that it is not medically necessary or appropriate or is experimental or investigational. The term does~~

~~not include a determination of a managed care organization that such an allocation is not a covered benefit.]~~ ***by a health carrier or utilization review organization that an admission, availability of care, continued stay or other health care service that is a covered benefit has been reviewed and, based upon the information provided, does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the requested service or payment for the service is therefore denied, reduced or terminated.***

Sec. 115. NRS 695G.014 is hereby amended to read as follows:

695G.014 "Authorized representative" means ~~[a]~~ ***:***

1. A person ~~[who has obtained the consent of an insured]~~ ***to whom a covered person has given express written consent*** to represent ~~[him or her]~~ ***the covered person*** in an external review of ~~[a final]~~ ***an*** adverse determination conducted pursuant to NRS 695G.241 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act;***

2. A person authorized by law to provide substituted consent for a covered person; or

3. A family member of a covered person or the covered person's treating provider only when the covered person is unable to provide consent.

Sec. 116. NRS 695G.018 is hereby amended to read as follows:

695G.018 ~~["External]~~ ***"Independent*** review organization" means an ~~[organization]~~ ***entity*** that:

1. Conducts an ***independent*** external review of ~~[a final]~~ ***an*** adverse determination; and

2. Is certified by the Commissioner in accordance with ~~[NRS 683A.371.]~~ ***sections 8 and 9 of this act.***

Sec. 116.3. NRS 695G.070 is hereby amended to read as follows:

695G.070 "Provider of health care" means ~~[any]~~ ***:***

1. A physician ~~[, hospital]~~ or other ~~[person]~~ ***health care practitioner*** who is licensed or otherwise authorized in this State to furnish any health care service ~~[.]~~ ***; and***

2. An institution providing health care services or other setting in which health care services are provided, including, without limitation, a hospital, surgical center for ambulatory patients, facility for skilled nursing, residential facility for groups, laboratory and any other such licensed facility.

Sec. 116.7. NRS 695G.080 is hereby amended to read as follows:

695G.080 1. "Utilization review" means the various methods that may be used ~~[by a managed care organization]~~ to review the amount and appropriateness of the provision of a specific health care service ***.*** ~~[to an insured.]~~

2. The term does not include an external review of ~~[a final]~~ ***an*** adverse determination conducted pursuant to NRS 695G.241 to 695G.310, inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 117. (Deleted by amendment.)

Sec. 118. NRS 695G.230 is hereby amended to read as follows:

695G.230 1. After approval by the Commissioner, each ~~[managed care organization]~~ ***health carrier*** shall provide a written notice to an insured, in clear and comprehensible language that is understandable to an ordinary layperson, explaining the right of the insured to file a written complaint and to obtain an expedited review pursuant to NRS 695G.210. Such a notice must be provided to an insured:

(a) At the time the insured receives his or her certificate of coverage or evidence of coverage;

(b) Any time that the ~~[managed care organization]~~ ***health carrier*** denies coverage of a health care service or limits coverage of a health care service to an insured; and

(c) Any other time deemed necessary by the Commissioner.

2. If a ~~[managed care organization]~~ ***health carrier*** denies coverage of a health care service to an insured, including, without limitation, a health maintenance organization that denies a claim related to a health care plan pursuant to NRS 695C.185, it shall notify the insured in writing within 10 working days after it denies coverage of the health care service of:

(a) The reason for denying coverage of the service;

(b) The criteria by which the ~~[managed care organization]~~ ***health carrier*** or insurer determines whether to authorize or deny coverage of the health care service;

(c) The right of the insured to:

(1) File a written complaint and the procedure for filing such a complaint;

(2) Appeal ~~[a final]~~ ***an*** adverse determination pursuant to NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive ~~[;]~~ ***, of this act;***

(3) Receive an expedited external review of ~~[a final]~~ ***an*** adverse determination if the ~~[managed care organization]~~ ***health carrier*** receives proof from the insured's provider of health care that failure to proceed in an expedited manner may jeopardize the life or health of the insured, including notification of the procedure for requesting the expedited external review; and

(4) Receive assistance from any person, including an attorney, for an external review of ~~[a final]~~ ***an*** adverse determination; and

(d) The telephone number of the Office for Consumer Health Assistance.

3. A written notice which is approved by the Commissioner shall be deemed to be in clear and comprehensible language that is understandable to an ordinary layperson.

Sec. 118.1. NRS 695G.241 is hereby amended to read as follows:

695G.241 ~~[1. For]~~ ***Except as otherwise required for an expedited external review pursuant to NRS 695G.271 or section 107 of this act, for*** the purposes of NRS 695G.200 to 695G.310, inclusive, ***and sections 102 to***

112, inclusive, of this act, an adverse determination ~~[is final if the insured has exhausted all procedures set forth in the health care plan for reviewing the adverse determination within the managed care organization.~~

~~2. An adverse determination shall be deemed final for the purpose of submitting the adverse determination to an external review organization for~~] ***may be subject to*** an external review:

~~[(a)~~] ***1.*** If ~~[an insured]~~ ***a covered person*** exhausts all procedures set forth in the health care plan for reviewing the adverse determination within the ~~[managed care organization]~~ ***health carrier*** and the ~~[managed care organization]~~ ***health carrier*** fails to render a decision within the period required to render that decision set forth in the health care plan; or

~~[(b)~~] ***2.*** If the ~~[managed care organization submits]~~ ***health carrier allows the covered person to submit*** the adverse determination to the ~~[external]~~ ***independent*** review organization without requiring the ~~[insured]~~ ***covered person*** to exhaust all procedures set forth in the health care plan for reviewing the adverse determination within the ~~[managed care organization.]~~ ***health carrier.***

Sec. 118.2. NRS 695G.251 is hereby amended to read as follows:

695G.251 1. If ~~[an insured]~~ ***a covered person*** or a physician of ~~[an insured]~~ ***a covered person*** receives notice of ~~[a final]~~ ***an*** adverse determination from a ~~[managed care organization]~~ ***health carrier*** concerning the ~~[insured, and if the insured is required to pay $500 or more for the health care services that are the subject of the final adverse determination, the insured,]~~ ***covered person, the covered person,*** the physician of the ~~[insured]~~ ***covered person*** or an authorized representative may, within ~~[60 days]~~ ***4 months*** after receiving notice of the ~~[final]~~ adverse determination, submit a request to the ~~[managed care organization]~~ ***Office for Consumer Health Assistance*** for an external review of the ~~[final]~~ adverse determination.

2. Within 5 days after receiving a request pursuant to subsection 1, the ~~[managed care organization]~~ ***Office for Consumer Health Assistance*** shall notify the ~~[insured,]~~ ***covered person,*** the authorized representative or physician of the ~~[insured,]~~ ***covered person,*** the agent who performed utilization review for the ~~[managed care organization,]~~ ***health carrier,*** if any, and the ~~[Office for Consumer Health Assistance]~~ ***health carrier*** that the request has been filed with the ~~[managed care organization.]~~ ***Office for Consumer Health Assistance.***

3. As soon as practicable after receiving a ~~[notice]~~ ***request*** pursuant to subsection ~~[2,]~~ ***1,*** the Office for Consumer Health Assistance shall assign an ~~[external]~~ ***independent*** review organization from the list maintained pursuant to ~~[NRS 683A.371.]~~ ***section 8 of this act.*** Each assignment made pursuant to this subsection must be completed on a rotating basis.

4. Within 5 days after receiving notification from the Office for Consumer Health Assistance specifying the ~~[external]~~ ***independent*** review organization assigned pursuant to subsection 3, the ~~[managed care organization]~~ ***health carrier*** shall provide to the ~~[external]~~ ***independent***

review organization all documents and materials relating to the ~~[final]~~ adverse determination, including, without limitation:

(a) Any medical records of the insured relating to the external review;

(b) A copy of the provisions of the health ~~[care]~~ ***benefit*** plan upon which the ~~[final]~~ adverse determination was based;

(c) Any documents used by the ~~[managed care organization]~~ ***health carrier*** to make the ~~[final]~~ adverse determination;

(d) The reasons for the ~~[final]~~ adverse determination; and

(e) Insofar as practicable, a list that specifies each provider of health care who has provided health care to the ~~[insured]~~ ***covered person*** and the medical records of the provider of health care relating to the external review.

Sec. 118.3. NRS 695G.261 is hereby amended to read as follows:

695G.261 1. Except as otherwise provided in NRS 695G.271 ~~[,]~~ ***and section 107 of this act,*** upon receipt of a request for an external review pursuant to NRS 695G.251, the ~~[external]~~ ***independent*** review organization shall, within 5 days after receiving the request:

(a) Review the request and the documents and materials submitted pursuant to NRS 695G.251; and

(b) Notify the ~~[insured,]~~ ***covered person,*** the physician of the ~~[insured]~~ ***covered person*** and the ~~[managed care organization]~~ ***health carrier*** if any additional information is required to conduct a review of the ~~[final]~~ adverse determination. ***Such additional information must be provided within 5 days after receiving notice that the information is required to conduct a review of the adverse determination. The independent review organization shall forward to the health carrier, within 1 business day after receipt, any information received from a covered person or the physician of a covered person.***

2. Except as otherwise provided in NRS 695G.271 ~~[,]~~ ***and section 107 of this act,*** the ~~[external]~~ ***independent*** review organization shall approve, modify or reverse the ~~[final]~~ adverse determination within 15 days after it receives the information required to make that determination pursuant to this section. The ~~[external]~~ ***independent*** review organization shall submit a copy of its determination, including the reasons therefor, to:

(a) The ~~[insured;]~~ ***covered person;***

(b) The physician of the ~~[insured;]~~ ***covered person;***

(c) The authorized representative of the ~~[insured,]~~ ***covered person,*** if any; and

(d) The ***health carrier.***

Sec. 118.4. NRS 695G.271 is hereby amended to read as follows:

695G.271 1. ~~[A managed care organization]~~ ***The Office for Consumer Health Assistance*** shall approve or deny a request for an external review of ~~[a final]~~ ***an*** adverse determination in an expedited manner not later than 72 hours after it receives proof from the ~~[insured's]~~ provider of health care ***of the covered person*** that ~~[failure]~~ ***:***

(a) The adverse determination concerns an admission, availability of care, continued stay or health care service for which the covered person received emergency services but has not been discharged from the facility providing the services or care; or

(b) Failure to proceed in an expedited manner may jeopardize the life or health of the ~~[~~insured.~~]~~ ***covered person or the ability of the covered person to regain maximum function.***

2. If ~~[~~a managed care organization~~]~~ ***the Office for Consumer Health Assistance*** approves a request for an external review pursuant to subsection 1, the ~~[~~managed care organization~~]~~ ***Office for Consumer Health Assistance*** shall ~~[~~:

~~(a) In accordance with subsections 4 and 5,~~]~~ assign the request to an ~~[~~external~~]~~ ***independent*** review organization not later than 1 working day after approving the request**.** ~~[~~; and

~~(b) At the time of~~]~~ ***Each assignment made by the Office for Consumer Health Assistance pursuant to this section must be completed on a rotating basis.***

3. Within 24 hours after receiving notice of the Officer for Consumer Health Assistance assigning the request, ***the health carrier shall*** provide to the ~~[~~external~~]~~ ***independent*** review organization all documents and materials specified in subsection 4 of NRS 695G.251.

~~[~~3.~~]~~ ***4.*** An ~~[~~external~~]~~ ***independent*** review organization that is assigned to conduct an external review pursuant to subsection 2 shall, if it accepts the assignment:

(a) Complete its external review not later than ~~[~~2 working days~~]~~ ***48 hours*** after receiving the assignment, unless the ~~[~~insured~~]~~ ***covered person*** and the ~~[~~managed care organization~~]~~ ***health carrier*** agree to a longer period;

(b) Not later than ~~[~~1 working day~~]~~ ***24 hours*** after completing its external review, notify the ~~[~~insured,~~]~~ ***covered person,*** the physician of the ~~[~~insured,~~]~~ ***covered person,*** the authorized representative ***,*** ~~[~~of the insured,~~]~~ if any, and the ~~[~~managed care organization~~]~~ ***health carrier*** by telephone of its determination; and

(c) Not later than ~~[~~5 working days~~]~~ ***48 hours*** after completing its external review, submit a written decision of its external review to the ~~[~~insured,~~]~~ ***covered person,*** the physician of the ~~[~~insured,~~]~~ ***covered person,*** the authorized representative ***,*** ~~[~~of the insured,~~]~~ if any, and the ~~[~~managed care organization.

~~4. At least once each month, the Office for Consumer Health Assistance shall designate at least 2 external review organizations to conduct external reviews in an expedited manner pursuant to this section. As soon as practicable after designating an external review organization pursuant to this section, the Office for Consumer Health Assistance shall notify each managed care organization of the designation.~~

~~5. As soon as practicable after assigning an external review organization to conduct an external review pursuant to this section, the managed care~~

~~organization shall notify the Office for Consumer Health Assistance of the assignment. Each assignment made by a managed care organization pursuant to this section must be completed on a rotating basis.]~~ ***health carrier.***

Sec. 118.5. NRS 695G.280 is hereby amended to read as follows:

695G.280 The decision of an ~~[external]~~ ***independent*** review organization concerning a request for an external review must be based on:

1. Documentary evidence, including any recommendation of the physician of the insured submitted pursuant to NRS 695G.251;

2. Medical ***or scientific*** evidence, including, without limitation:

(a) Professional standards of safety and effectiveness for diagnosis, care and treatment that are generally recognized in the United States;

(b) Any report published in literature that is peer-reviewed;

(c) Evidence-based medicine, including, without limitation, reports and guidelines that are published by professional organizations that are recognized nationally and that include supporting scientific data; and

(d) An opinion of an independent physician who, as determined by the ~~[external]~~ ***independent*** review organization, is an expert in the health specialty that is the subject of the external review; and

3. The terms and conditions for benefits set forth in the evidence of coverage issued to the insured by the ***health carrier.***

Sec. 118.6. NRS 695G.290 is hereby amended to read as follows:

695G.290 1. If the determination of an ~~[external]~~ ***independent*** review organization concerning an external review of ~~[a final]~~ ***an*** adverse determination is in favor of the ~~[insured,]~~ ***covered person,*** the determination is final, conclusive and binding upon the ~~[managed care organization.]~~ ***health carrier.***

2. An ~~[external]~~ ***independent*** review organization or any clinical peer who conducts or participates in an external review of ~~[a final]~~ ***an*** adverse determination for the ~~[external]~~ ***independent*** review organization is not liable in a civil action for damages relating to a determination made by the ~~[external]~~ ***independent*** review organization if the determination is made in good faith and without gross negligence.

3. The cost of conducting an external review of ~~[a final]~~ ***an*** adverse determination pursuant to NRS 695G.241 to 695G.310, inclusive, ***and sections 102 to 112, inclusive, of this act*** must be paid by the ~~[managed care organization]~~ ***health carrier*** that made the ~~[final]~~ adverse determination.

Sec. 118.7. NRS 695G.300 is hereby amended to read as follows:

695G.300 In lieu of resolving a complaint of ~~[an insured]~~ ***a covered person*** in accordance with a system for resolving complaints established pursuant to the provisions of NRS 695G.200, a ~~[managed care organization]~~ ***health carrier*** may:

1. Submit the complaint to an ~~[external]~~ ***independent*** review organization pursuant to the provisions of NRS 695G.241 to 695G.310, inclusive ~~[;]~~ ***, and sections 102 to 112, inclusive, of this act;*** or

2. If a federal law or regulation provides a procedure for submitting the complaint for resolution that the Commissioner determines is substantially similar to the procedure for submitting the complaint to an ~~[external]~~ ***independent*** review organization pursuant to NRS 695G.241 to 695G.310, inclusive, ***and sections 102 to 112, inclusive, of this act,*** submit the complaint for resolution in accordance with the federal law or regulation.

Sec. 118.8. NRS 695G.310 is hereby amended to read as follows:

695G.310 On or before December 31 of each year, each ~~[managed care organization]~~ ***health carrier*** shall file a written report with the Office for Consumer Health Assistance setting forth the total number of:

1. Requests for ***an*** external review ~~[that were received by the managed care organization]~~ ***of an adverse decision made by the health carrier which were granted by the Office for Consumer Health Assistance*** during the immediately preceding year; and

2. ~~[Final adverse]~~ ***Adverse*** determinations of the ~~[managed care organization]~~ ***health carrier*** that were:

(a) Upheld during the immediately preceding year.

(b) Reversed during the immediately preceding year.

Sec. 119. NRS 695H.090 is hereby amended to read as follows:

695H.090 1. An application for registration to engage in business as a medical discount plan must be submitted on a form prescribed by the Commissioner. The form must be signed by an officer or an authorized representative of the applicant. Except as otherwise provided in this section, the application must be accompanied by:

(a) A registration fee of $500 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

(b) A copy of the organizational documents of the applicant, if any.

(c) A list of names, addresses, positions of employment and biographical information of each person who is responsible for conducting the business activities of the medical discount plan of the applicant, including, but not limited to, all members of the board of directors, board of trustees, officers and managers. The list must set forth the extent and nature of any contracts or other agreements between any person who is responsible for conducting the business activities of the applicant and the medical discount plan, including disclosure of any possible conflicts of interest.

(d) A complete biographical statement, on a form prescribed by the Commissioner, describing the facilities, employees and services that will be offered by the applicant.

(e) A copy of all forms used for contracts between the applicant and networks of providers of health care regarding the provision of health care or medical services to members.

(f) A copy of the most recent financial statements of the applicant, audited by an independent certified public accountant.

(g) A description of the method of marketing proposed by the applicant.

(h) A description of the procedures for making a complaint to be established and maintained by the applicant.

(i) Any other information required by the Commissioner.

2. Each person who registers a medical discount plan must renew the registration ~~[annually]~~ ***on or*** before ~~[the registration expires.]~~ ***March 1 of each year.*** Except as otherwise provided in this section, an application to renew the registration must include:

(a) An annual renewal fee of $500 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110; and

(b) Any information set forth in subsection 1 that the Commissioner requires to be included in the application.

3. An administrator or insurer that registers a medical discount plan is not required to pay the fees for registering or renewing the registration of the medical discount plan pursuant to this section.

4. The Commissioner shall, by regulation, designate the provisions of subsection 1 that shall be deemed satisfied by an administrator, insurer or affiliate of an insurer that has complied with substantially similar requirements pursuant to other provisions of this title.

Sec. 120. NRS 695H.180 is hereby amended to read as follows:

695H.180 A person who violates any provision of this chapter or an order or regulation of the Commissioner issued or adopted pursuant thereto may be assessed an administrative penalty by the Commissioner of not more than $2,000 for each act or violation **.** ~~[, not to exceed an aggregate amount of $10,000 for violations of a similar nature. For the purposes of this section, violations shall be deemed to be of a similar nature if the violations consist of the same or similar conduct, regardless of the number of times the conduct occurred.]~~

Sec. 121. NRS 697.173 is hereby amended to read as follows:

697.173 1. Except as otherwise provided in subsection ~~[2,]~~ ***4,*** a person is entitled to receive, renew or hold a license as a bail enforcement agent if the person:

(a) Is a natural person not less than 21 years of age.

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

(c) Has a high school diploma or a general equivalency diploma or has an equivalent education as determined by the Commissioner.

(d) Has ~~[submitted to the Commissioner a report of an investigation of the criminal history of the person from the Central Repository for Nevada Records of Criminal History which indicates that the person possesses the qualifications for licensure as a bail enforcement agent.]~~ ***complied with the requirements of subsection 4 of NRS 697.180.***

(e) Has submitted to the Commissioner the results of an examination conducted by a psychiatrist or psychologist licensed to practice in this state which indicate that the person does not suffer from a psychological condition

that would adversely affect the ability of the person to carry out his or her duties as a bail enforcement agent.

(f) Has passed any written examination required by this chapter.

(g) Submits to the Commissioner the results of a test to detect the presence of a controlled substance in the system of the person that was administered no earlier than 30 days before the date of the application for the license which do not indicate the presence of any controlled substance for which the person does not possess a current and lawful prescription issued in the name of the person.

(h) Successfully completes the training required by NRS 697.177.

2. A person is not entitled to receive, renew or hold a license of a bail enforcement agent if the person:

(a) Has been convicted of a felony in this state or of any offense committed in another state which would be a felony if committed in this state; or

(b) Has been convicted of an offense involving moral turpitude or the unlawful use, sale or possession of a controlled substance.

Sec. 122. NRS 697.180 is hereby amended to read as follows:

697.180 1. A written application for a license as a bail agent, general agent, bail enforcement agent or bail solicitor must be filed with the Commissioner by the applicant, accompanied by the applicable fees. The application form must:

(a) Include the social security number of the applicant; ***and***

(b) ~~[Be accompanied by a complete set of the applicant's fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(c)]~~ Require full answers to questions reasonably necessary to determine the applicant's:

(1) Identity and residence.

(2) Business record or occupations for not less than the 2 years immediately preceding the date of the application, with the name and address of each employer, if any.

(3) Prior criminal history, if any.

2. The Commissioner may require the submission of such other information as may be required to determine the applicant's qualifications for the license for which the applicant applied.

3. The applicant must verify his or her application. An applicant for a license under this chapter shall not knowingly misrepresent or withhold any fact or information called for in the application form or in connection therewith.

4. Each applicant must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

5. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

Sec. 123. NRS 223.580 is hereby amended to read as follows:

223.580 On or before February 1 of each year, the Director shall submit a written report to the Governor, 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:

1. A statement setting forth the number and geographic origin of the written and telephonic inquiries received by the Office for Consumer Health Assistance and the issues to which those inquiries were related;

2. A statement setting forth the type of assistance provided to each consumer and injured employee who sought assistance from the Director, including, without limitation, the number of referrals made to the Attorney General pursuant to subsection 7 of NRS 223.560;

3. A statement setting forth the disposition of each inquiry and complaint received by the Director; and

4. A statement setting forth the number of external reviews conducted by ~~[external]~~ ***independent*** review organizations pursuant to NRS 695G.241 to

695G.310, ***inclusive, and sections 102 to 112,*** inclusive, ***of this act,*** and the disposition of ~~[each of]~~ those reviews as reported pursuant to NRS 695G.310 ~~[.]~~ ***and section 110 of this act.***

Sec. 124. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.1645, 695G.170, 695G.171, 695G.173, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive, ***of this act*** and 695G.405, in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 125. NRS 422.273 is hereby amended to read as follows:

422.273 1. For any Medicaid managed care program established in the State of Nevada, the Department shall contract only with a health maintenance organization that has:

(a) Negotiated in good faith with a federally-qualified health center to provide health care services for the health maintenance organization;

(b) Negotiated in good faith with the University Medical Center of Southern Nevada to provide inpatient and ambulatory services to recipients of Medicaid; and

(c) Negotiated in good faith with the University of Nevada School of Medicine to provide health care services to recipients of Medicaid.

➥ Nothing in this section shall be construed as exempting a federally-qualified health center, the University Medical Center of Southern Nevada or the University of Nevada School of Medicine from the requirements for contracting with the health maintenance organization.

2. During the development and implementation of any Medicaid managed care program, the Department shall cooperate with the University of Nevada School of Medicine by assisting in the provision of an adequate and diverse group of patients upon which the school may base its educational programs.

3. The University of Nevada School of Medicine may establish a nonprofit organization to assist in any research necessary for the development of a Medicaid managed care program, receive and accept gifts, grants and donations to support such a program and assist in establishing educational services about the program for recipients of Medicaid.

4. For the purpose of contracting with a Medicaid managed care program pursuant to this section, a health maintenance organization is exempt from the provisions of NRS 695C.123.

5. The provisions of this section apply to any managed care organization, including a health maintenance organization, that provides health care services to recipients of Medicaid under the State Plan for Medicaid or the Children's Health Insurance Program pursuant to a contract with the Division. Such a managed care organization or health maintenance organization is not required to establish a system for conducting external

reviews of ~~[final]~~ adverse determinations in accordance with chapter 695B, 695C or 695G of NRS. This subsection does not exempt such a managed care organization or health maintenance organization for services provided pursuant to any other contract.

6. As used in this section, unless the context otherwise requires:

(a) "Federally-qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).

(b) "Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.

(c) "Managed care organization" has the meaning ascribed to it in NRS 695G.050.

Sec. 126. NRS 616A.235 is hereby amended to read as follows:

616A.235 ~~["External]~~ ***"Independent*** review organization" means an organization which has been issued a certificate pursuant to NRS 616A.469 that authorizes the organization to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS.

Sec. 127. NRS 616A.469 is hereby amended to read as follows:

616A.469 1. The Commissioner may issue certificates authorizing qualified ~~[external]~~ ***independent*** review organizations to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS. If the Commissioner issues such certificates and the Commissioner determines that an ~~[external]~~ ***independent*** review organization is qualified to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS, the Commissioner shall issue a certificate to the ~~[external]~~ ***independent*** review organization that authorizes the organization to conduct such external reviews in accordance with the provisions of NRS 616C.363 and the regulations adopted by the Commissioner.

2. The Commissioner may adopt regulations setting forth the procedures that an ~~[external]~~ ***independent*** review organization must follow to be issued a certificate to conduct external reviews. Any regulations adopted pursuant to this section must include, without limitation, provisions setting forth:

(a) The manner in which an ~~[external]~~ ***independent*** review organization may apply for a certificate and the requirements for the issuance and renewal of the certificate pursuant to this section;

(b) The grounds for which the Commissioner may refuse to issue, suspend, revoke or refuse to renew a certificate issued pursuant to this section;

(c) The manner and circumstances under which an ~~[external]~~ ***independent*** review organization is required to conduct its business; and

(d) Any applicable fees for issuing or renewing a certificate of an ~~[external]~~ ***independent*** review organization pursuant to this section.

3. A certificate issued pursuant to this section expires 1 year after it is issued and may be renewed in accordance with regulations adopted by the Commissioner.

4. Before the Commissioner may issue a certificate to an ~~[external]~~ ***independent*** review organization, the ~~[external]~~ ***independent*** review organization must:

(a) Demonstrate to the satisfaction of the Commissioner that it is able to carry out, in a timely manner, the duties of an ~~[external]~~ ***independent*** review organization as set forth in NRS 616C.363 and the regulations adopted by the Commissioner. The demonstration must include, without limitation, proof that the ~~[external]~~ ***independent*** review organization employs, contracts with or otherwise retains only persons who are qualified because of their education, training, professional licensing and experience to perform the duties assigned to those persons; and

(b) Provide assurances satisfactory to the Commissioner that the ~~[external]~~ ***independent*** review organization will:

(1) Conduct external reviews in accordance with the provisions of NRS 616C.363 and the regulations adopted by the Commissioner;

(2) Render its decisions in a clear, consistent, thorough and timely manner; and

(3) Avoid conflicts of interest.

5. For the purposes of this section, an ~~[external]~~ ***independent*** review organization has a conflict of interest if the ~~[external]~~ ***independent*** review organization or any employee, agent or contractor of the ~~[external]~~ ***independent*** review organization who conducts an external review has a professional, familial or financial interest of a material nature with respect to any person who has a substantial interest in the outcome of the external review, including, without limitation:

(a) The claimant;

(b) The employer; or

(c) The insurer or any officer, director or management employee of the insurer.

6. The Commissioner shall not issue a certificate to an ~~[external]~~ ***independent*** review organization that is affiliated with:

(a) An organization for managed care which provides comprehensive medical and health care services to employees for injuries or diseases pursuant to chapters 616A to 617, inclusive, of NRS;

(b) An insurer;

(c) A third-party administrator; or

(d) A national, state or local trade association.

7. An ~~[external]~~ ***independent*** review organization which is certified or accredited by an accrediting body that is nationally recognized shall be deemed to have satisfied all the conditions and qualifications required for the ~~[external]~~ ***independent*** review organization to be issued a certificate pursuant to this section.

Sec. 128. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. ~~[For the purposes of chapters 612 and 616A to 617, inclusive, of NRS, an]~~ ***An*** employee leasing company which complies with

the provisions of NRS 616B.670 to 616B.697, inclusive, shall be deemed to be the employer of the employees it leases to a client company. ***The provisions of this subsection apply only for the purposes of chapters 612 and 616A to 617, inclusive, of NRS.***

2. ~~[If an employee leasing company complies with the provisions of subsection 3, the]~~ ***An*** employee leasing company shall be deemed to be ~~[the]~~ ***an*** employer of its leased employees for the purposes of ***offering,*** sponsoring and maintaining any benefit plans **.** ~~[, including, without limitation, for the purposes of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.]~~ ***The provisions of this subsection do not affect the employer-employee relationship that exists between a leased employee and a client company.***

3. An employee leasing company shall not offer ***, sponsor or maintain for*** its ***leased*** employees any self-funded ~~[industrial]~~ insurance program. An employee leasing company shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS ~~[.]~~ ***or title 57 of NRS.***

4. If an employee leasing company fails to:

(a) Pay any contributions, premiums, forfeits or interest due; or

(b) Submit any reports or other information required,

➥ pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 129. NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him or her on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee's condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:

(a) Order an independent medical examination and refer the employee to a physician or chiropractor of his or her choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating

physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an ~~[external]~~ ***independent*** review organization, submit the matter to an ~~[external]~~ ***independent*** review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. The appeals officer may consider the opinion of an examining physician or chiropractor, in addition to the opinion of an authorized treating physician or chiropractor, in determining the compensation payable to the injured employee.

5. If an injured employee has requested payment for the cost of obtaining a second determination of his or her percentage of disability pursuant to NRS 616C.100, the appeals officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

6. The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

7. Any party to the appeal or contested case or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

8. Except as otherwise provided in subsection 9, the appeals officer shall render a decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

9. The appeals officer shall render a decision on a contested claim submitted pursuant to subsection 2 of NRS 616C.345 within 15 days after:

(a) The date of the hearing; or

(b) If the appeals officer orders an independent medical examination, the date the appeals officer receives the report of the examination,

➥ unless both parties to the contested claim agree to a later date.

10. The appeals officer may affirm, modify or reverse any decision made by a hearing officer and issue any necessary and proper order to give effect to his or her decision.

Sec. 130. NRS 616C.363 is hereby amended to read as follows:

616C.363 1. Not later than 5 business days after the date that an ~~[external]~~ ***independent*** review organization receives a request for an external review, the ~~[external]~~ ***independent*** review organization shall:

(a) Review the documents and materials submitted for the external review; and

(b) Notify the injured employee, his or her employer and the insurer whether the ~~[external]~~ ***independent*** review organization needs any additional information to conduct the external review.

2. The ~~[external]~~ ***independent*** review organization shall render a decision on the matter not later than 15 business days after the date that it receives all information that is necessary to conduct the external review.

3. In conducting the external review, the ~~[external]~~ ***independent*** review organization shall consider, without limitation:

(a) The medical records of the insured;

(b) Any recommendations of the physician of the insured; and

(c) Any other information approved by the Commissioner for consideration by an ~~[external]~~ ***independent*** review organization.

4. In its decision, the ~~[external]~~ ***independent*** review organization shall specify the reasons for its decision. The ~~[external]~~ ***independent*** review organization shall submit a copy of its decision to:

(a) The injured employee;

(b) The employer;

(c) The insurer; and

(d) The appeals officer, if any.

5. The insurer shall pay the costs of the services provided by the ~~[external]~~ ***independent*** review organization.

6. The Commissioner may adopt regulations to govern the process of external review and to carry out the provisions of this section. Any regulations adopted pursuant to this section must provide that:

(a) All parties must agree to the submission of a matter to an ~~[external]~~ ***independent*** review organization before a request for external review may be submitted;

(b) A party may not be ordered to submit a matter to an ~~[external]~~ ***independent*** review organization; and

(c) The findings and decisions of an ~~[external]~~ ***independent*** review organization are not binding.

Sec. 131. NRS 683A.371, ~~[683A.373,]~~ 684A.155, 686A.225, 689A.360, 689A.625 and 689C.105 are hereby repealed.

Sec. 132. 1. This section and sections **9.5 and 51.9 of this act become effective upon passage and approval.**

2. Sections 1 to **9, inclusive, 10 to 51.7, inclusive, 52 to** 56, inclusive, and 58 to 131, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2011, for all other purposes.

~~[2.]~~ **3.** Section 57 of this act becomes effective on January 1, 2013.

~~[3.]~~ **4.** Sections 23, 24, 25, 45, 47, 59, 60 and 122 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.

LEADLINES OF REPEALED SECTIONS

683A.371 Certification; conflicts of interest; annual list.

~~[683A.373 Submission of annual list to Office for Consumer Health Assistance.]~~

684A.155 Limited license: Commissioner authorized to issue to adjuster licensed in adjoining state; terms; powers.

686A.225 Certain insurers to retain adjuster who resides in this State.

689A.360 Filing of rates.

689A.625 Supplemental coverage not health benefit plan if individual carrier files annual certification with Commissioner.

689C.105 "Supplemental coverage" defined.

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. 903 to Assembly Bill No. 74 makes numerous changes at the request of the Commissioner of Insurance.

The amendment also provides that an employee leasing company may be deemed a "large employer" for purposes pertaining to fully-insured health benefit plans and specifies that certain provisions affecting employee leasing companies are effective upon passage and approval.

The amendment provides limited coverage by the Nevada Life and Health Insurance Guaranty Association for unallocated annuity contracts offered to participants in all governmental deferred compensation plans.

Amendment adopted.

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

Assembly Bill No. 123.

Bill read third time.

Roll call on Assembly Bill No. 123:

YEAS—21.

NAYS—None.

Assembly Bill No. 123 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 222.

Bill read third time.

The following amendment was proposed by the Committee on Education:

Amendment No. 926.

"SUMMARY—Creates the Teachers and Leaders Council of Nevada. (BDR 34-873)"

"AN ACT relating to education; creating the Teachers and Leaders Council of Nevada; prescribing the membership and duties of the Council; requiring the State Board of Education to establish a statewide performance evaluation system for teachers and administrators; revising provisions governing the policies for the evaluation of teachers and administrators; revising the designations required of the evaluations of teachers and administrators; making an appropriation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 4-6 of this bill create the Teachers and Leaders Council of Nevada and prescribe the membership and duties of the Council. **Section 6** requires the Council to make recommendations to the State Board of Education for the establishment of a statewide performance evaluation system for teachers and administrators employed by school districts.

Existing law requires the automated system of accountability information for Nevada to track the achievement of pupils over time and to identify which teachers ~~[and paraprofessionals]~~ are assigned to individual pupils. The information is required to be considered, but must not be the sole criterion, in evaluating the performance of or taking disciplinary action against an individual teacher ~~[, paraprofessional]~~ or other employee. (NRS 386.650) Existing law also requires the board of trustees of each school district to develop a policy for the evaluation of teachers and administrators pursuant to which the performance of an individual teacher or administrator is designated as "satisfactory" or "unsatisfactory." (NRS 391.3125, 391.3127) **Section 7** of this bill requires the State Board of Education, based upon the recommendations of the Council, to establish a statewide performance evaluation system for teachers and administrators employed by school districts. Effective July 1, 2013, the statewide performance evaluation system will require the evaluation of an individual teacher or administrator as "highly effective," "effective," "minimally effective" or "ineffective." ~~[Also effective July 1, 2013, section 2 of this bill]~~ **Assembly Bill No. 229 of this session, which was enacted by the Legislature on June 2, 2011,** requires 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 of teachers and administrators. **Sections 2**

and 7 of this bill make conforming changes on the use of pupil achievement data in the evaluation of teachers and administrators as the requirements on the use of that data contained in Assembly Bill No. 229. Sections 8.5 and 9.5 of this bill require the policies for the evaluations of teachers and administrators employed by school districts to comply with the statewide performance evaluation system established by the State Board.

Until the implementation of the statewide performance evaluation system, **sections 8 and 9** of this bill provide that the policies for the evaluations of teachers and administrators employed by school districts must require that certain information on pupil achievement which is maintained by the automated system of accountability information for Nevada account for a significant portion of the evaluation, as determined by the board of trustees.

Assembly Bill No. 229 of this session, provides that if the written evaluation of a probationary teacher or probationary administrator states that the overall performance of the teacher or administrator has been designated as "unsatisfactory," the evaluation must include a written statement which states that if the teacher or administrator has received two evaluations for the school year which designate his or her performance as "unsatisfactory" and the teacher or administrator has another evaluation remaining in the school year, the teacher or administrator may request that the remaining evaluation be conducted by another administrator. Section 10.3 of this bill amends Assembly Bill No. 229 to provide that the probationary teacher or probationary administrator may make such a request if the teacher or administrator receives an "unsatisfactory" evaluation on the first or second evaluation, or both evaluations. Effective on July 1, 2013, section 10.4 of this bill amends Assembly Bill No. 229 to provide that the probationary teacher or probationary administrator may make such a request for an outside evaluator if he or she receives an evaluation of "minimally effective" or "ineffective" on the first or second evaluation, or both evaluations.

Section 10.5 of this bill makes an appropriation to the Department of Education for the costs associated with the Teachers and Leaders Council of Nevada created by **section 5**.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 386.650 is hereby amended to read as follows:

386.650 1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➥ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction. The information must ~~[be considered,]~~ ***account for at least 50 percent,*** but must not be used as the sole criterion, in evaluating the performance of or taking disciplinary action against an individual teacher, paraprofessional or other employee.

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2 and by each university school for profoundly gifted pupils;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data to the Department;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe the date by which each university school for profoundly gifted pupils shall report the data to the Department;

(g) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school and university school for profoundly gifted pupils located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the

Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

Sec. 3. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 7, inclusive, of this act.

Sec. 4. ***As used in sections 5 and 6 of this act, "Council" means the Teachers and Leaders Council of Nevada created by section 5 of this act.***

Sec. 5. ***1. There is hereby created the Teachers and Leaders Council of Nevada consisting of the following 15 members:***

(a) The Superintendent of Public Instruction, or his or her designee, who serves as an ex officio member of the Council.

(b) The Chancellor of the Nevada System of Higher Education, or his or her designee, who serves as an ex officio member of the Council.

(c) Four teachers in public schools appointed by the Governor from a list of nominees submitted by the Nevada State Education Association. The members appointed pursuant to this paragraph must represent the geographical diversity of the school districts in this State.

(d) Two administrators in public schools appointed by the Governor from a list of nominees submitted by the Nevada Association of School Administrators and one superintendent of schools of a school district appointed by the Governor from a list of nominees submitted by the Nevada Association of School Superintendents. The members appointed pursuant to this paragraph must represent the geographical diversity of the school districts in this State.

(e) Two persons who are members of boards of trustees of school districts and who are appointed by the Governor from a list of nominees submitted by the Nevada Association of School Boards.

(f) One representative of the regional training programs for the professional development of teachers and administrators created by NRS 391.512 appointed by the Governor from a list of nominees submitted by the Nevada Association of School Superintendents.

(g) One parent or legal guardian of a pupil enrolled in public school appointed by the Governor from a list of nominees submitted by the Nevada Parent Teacher Association.

(h) Two persons with expertise in the development of public policy relating to education appointed by the Superintendent of Public Instruction. The members appointed pursuant to this paragraph must not otherwise be eligible for appointment pursuant to paragraphs (a) to (g), inclusive.

2. After the initial terms, each appointed member of the Council serves a term of 3 years commencing on July 1 and may be reappointed to one additional 3-year term following his or her initial term. If any appointed member of the Council ceases to be qualified for the position to which he or she was appointed, the position shall be deemed vacant and the appointing authority shall appoint a replacement for the remainder of the

unexpired term. A vacancy must be filled in the same manner as the original appointment.

3. The Council shall, at its first meeting and annually thereafter, elect a Chair from among its members.

4. The Council shall meet at least semiannually and may meet at other times upon the call of the Chair or a majority of the members of the Council. Nine members of the Council constitute a quorum, and a quorum may exercise all the power and authority conferred on the Council.

5. Members of the Council serve without compensation, except that for each day or portion of a day during which a member of the Council attends a meeting of the Council or is otherwise engaged in the business of the Council, the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. A member of the Council who is a public employee must be granted administrative leave from the member's duties to engage in the business of the Council without loss of his or her regular compensation. Such leave does not reduce the amount of the member's other accrued leave.

7. The Department shall provide administrative support to the Council.

8. The Council may apply for and accept gifts, grants, donations and contributions from any source for the purpose of carrying out its duties pursuant to section 6 of this act.

Sec. 6. ***1. The Council shall:***

(a) Make recommendations to the State Board concerning the adoption of regulations for establishing a statewide performance evaluation system to ensure that teachers and administrators employed by school districts are:

(1) Evaluated using multiple, fair, timely, rigorous and valid methods, which includes evaluations based upon pupil achievement data as required by NRS 386.650 and section 7 of this act;

(2) Afforded a meaningful opportunity to improve their effectiveness through professional development that is linked to their evaluations; and

(3) Provided with the means to share effective educational methods with other teachers and administrators throughout this State.

(b) Develop and recommend to the State Board a plan, including duties and associated costs, for the development and implementation of the performance evaluation system by the Department and school districts.

(c) Consider the role of professional standards for teachers and administrators and, as it determines appropriate, develop a plan for recommending the adoption of such standards by the State Board.

2. The performance evaluation system recommended by the Council must ensure that:

(a) Data derived from the evaluations is used to create professional development programs that enhance the effectiveness of teachers and administrators; and

(b) A timeline is included for monitoring the performance evaluation system at least annually for quality, reliability, validity, fairness, consistency and objectivity.

3. The Council may establish such working groups, task forces and similar entities from within or outside its membership as necessary to address specific issues or otherwise to assist in its work.

4. The State Board shall consider the recommendations made by the Council pursuant to this section and shall adopt regulations establishing a statewide performance evaluation system as required by section 7 of this act.

Sec. 7. ***1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to section 6 of this act, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance.***

2. The statewide performance evaluation system must:

(a) Require that an employee's overall performance is determined to be:

(1) Highly effective;

(2) Effective;

(3) Minimally effective; or

(4) Ineffective.

(b) Include the criteria for making each designation identified in paragraph (a).

(c) 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.

(d) Include an evaluation of whether the teacher or administrator employs practices and strategies to involve and engage the parents and families of pupils.

Sec. 8. 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 must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board.*** 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 postprobationary teacher must be evaluated at least once each 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.

6. 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. 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. 8.5. 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 must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board.]~~ ***comply with the statewide performance evaluation system established by the State Board pursuant to section 7 of this act.*** 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 postprobationary teacher must be evaluated at least once each 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.

6. 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) ***An evaluation of whether the teacher employs practices and strategies to involve and engage the parents and families of pupils in the classroom;***

(f) If necessary, recommendations for improvements in the performance of the teacher;

~~[(f)]~~ ***(g)*** A description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation; and

~~[(g)]~~ ***(h)*** 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. 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. 9. 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 must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board.*** 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. 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. 9.5. 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 must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board.]~~ ***comply with the statewide performance evaluation system established by the State Board pursuant to section 7 of this act.*** 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. 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. 10. NRS 391.3197 is hereby amended to read as follows:

391.3197 1. A probationary employee is employed on a contract basis for two 1-year periods and has no right to employment after either of the two probationary contract years.

2. The board shall notify each probationary employee in writing on or before May 1 of the first and second school years of the employee's probationary period, as appropriate, whether the employee is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. The employee must advise the board in writing on or before May 10 of the first or second 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 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 year of the probationary period or for the next school year as a postprobationary employee. 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 constitutes rejection of the contract.

3. A probationary employee who completes a 2-year probationary period and receives a notice of reemployment from the school district in the second 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,]~~ ***highly effective***

or effective, 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, 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. A new employee 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 probationary period as an administrator in accordance with the provisions of this section. If the administrator does not receive an ~~[unsatisfactory]~~ evaluation ***indicating that his or her performance is minimally effective or ineffective*** 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 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. An administrator who has completed his or her probationary period pursuant to subsection 6 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the additional probationary period, 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.

Sec. 10.3. **Section 9 of Assembly Bill No. 229 of this session 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":***

(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]*~~ ***an*** ***'unsatisfactory*** ~~*[,']*~~ ***' evaluation on the first or second evaluation, or both evaluations for this school year, 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. 10.4. **Section 20 of Assembly Bill No. 229 of this session is hereby amended to read as follows:**

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 ~~[an]~~ ~~['unsatisfactory']~~ ***a 'minimally effective' or 'ineffective'*** evaluation on the first or second evaluation, or both evaluations for this school year, 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. 10.5. 1. There are hereby appropriated from the State General Fund to the Department of Education the following sums for the costs associated with the Teachers and Leaders Council of Nevada created by section 5 of this act:

For the Fiscal Year 2011-2012 .....$24,000

For the Fiscal Year 2012-2013 .....$8,000

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the Department of Education 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 21, 2012, and September 20, 2013, respectively, by either the Department of Education or the entity to which the money from the appropriation was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 21, 2012, and September 20, 2013, respectively.

Sec. 11. The Teachers and Leaders Council of Nevada created by section 5 of this act shall, not later than June 1, 2012, submit to the State Board of Education the recommendations of the Council for the adoption of regulations establishing a statewide performance evaluation system for teachers and administrators pursuant to section 7 of this act.

Sec. 12. On or before June 1, 2013, the State Board of Education shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to section 6 of this act, adopt regulations establishing a statewide performance evaluation system for teachers and administrators that complies with section 7 of this act.

Sec. 13. Each school district in this State shall, not later than the 2013-2014 school year, implement a performance evaluation policy for teachers and administrators that complies with the statewide performance evaluation system established by the State Board of Education pursuant to section 7 of this act.

Sec. 14. The appointed members of the Teachers and Leaders Council of Nevada created by section 5 of this act must be appointed to initial terms as follows:

1. The Governor shall appoint to the Council the members described in:

(a) Paragraph (c) of subsection 1 of section 5 of this act to initial terms of 2 years.

(b) Paragraphs (d) and (e) of subsection 1 of section 5 of this act to initial terms of 3 years.

(c) Paragraphs (f) and (g) of subsection 1 of section 5 of this act to initial terms of 1 year.

2. The Superintendent of Public Instruction shall appoint to the Council the members described in paragraph (h) of subsection 1 of section 5 of this act to initial terms of 3 years.

Sec. 15. 1. This section and sections 3 to 8, inclusive, 9, **10.3,** 10.5 and 11 to 14, inclusive, of this act become effective on July 1, 2011.

2. Sections 1, 2, 8.5, 9.5**,** ~~[and]~~ 10 **and 10.4** of this act become effective on July 1, 2013.

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. 926 to Senate Bill No. 222 provides that at least 50 percent of the performance evaluation contain student achievement data as specified in Assembly Bill No. 229. There is an amendment for Assembly Bill No. 229 to clarify that if a probationary teacher receives a negative evaluation on the first or second evaluation or both, the teacher may request a third evaluation be conducted by another evaluator selected from a list of three candidates submitted by the Superintendent of the school district. After July 1, 2013, that language changes to those receiving a "minimally effective" or "ineffective" on those performance evaluations.

Amendment adopted.

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

Assembly Bill No. 300.
Bill read third time.
Roll call on Assembly Bill No. 300:
YEAS—11.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 300 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 316.
Bill read third time.
Roll call on Assembly Bill No. 316:
YEAS—21.
NAYS—None.

Assembly Bill No. 316 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 345.
Bill read third time.
Roll call on Assembly Bill No. 345:
YEAS—21.
NAYS—None.

Assembly Bill No. 345 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 380.
Bill read third time.
Roll call on Assembly Bill No. 380:
YEAS—21.
NAYS—None.

Assembly Bill No. 380 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 574.
Bill read third time.
Roll call on Assembly Bill No. 574:
YEAS—21.
NAYS—None.

Assembly Bill No. 574 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

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

Senate in recess at 9:57 p.m.

SENATE IN SESSION

At 10:55 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

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*

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. 927.

"SUMMARY—Creates the Mining Oversight and Accountability Commission and revises the provisions governing ~~[the calculation of the net proceeds of mines.]~~ **certain mining taxes and fees.** (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; **repealing a fee imposed on certain filings regarding mining claims;** 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]~~ , consisting of seven members** appointed by the Governor. ~~[The]~~ **Two of the members must be recommended by the** Majority Leader of the Senate and **two by** the Speaker of the Assembly **. ~~[each appoint two additional members.]~~** In the first biennium, ~~[the seventh member is appointed]~~ **one member must be recommended** by the Minority Leader of the Senate. In the next biennium, ~~[the seventh member is appointed]~~ **one member must be recommended** by the Minority Leader of the Assembly. The ~~[appointment continues to alternate]~~ **authority of the Minority Leader of the Senate and the Minority Leader of the Assembly to make those recommendations alternates** each biennium thereafter. **Section 7** of this bill requires the Commission to provide oversight of compliance with Nevada

law relating to the activities of each state agency ~~[or political subdivision]~~ 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 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, Commission on Mineral Resources and the State Environmental Commission concerning mines and mining are not effective unless they are ~~[approved]~~ **reviewed** by the **Mining Oversight and Accountability** Commission ~~[. Section 12.5]~~ **before being approved by the Legislative Commission. Sections 12.5 and 12.7** of this bill ~~[revises]~~ **revise** provisions governing the calculation of net proceeds from certain mining operations conducted in this State.

During the 26th Special Session in 2010, the Legislature enacted a law imposing a fee on the filing of an affidavit of the work performed on or improvements made to a mining claim or an affidavit of the intent to hold a mining claim, if the person who holds the mining claim holds 11 or more mining claims in this State. (NRS 517.187) Section 16.3 of this bill repeals that law. Section 16.7 of this bill allows any person who paid that fee to receive a credit of the amount paid against any liability of the person for the state modified business tax or, if that is not practical, a refund of the amount paid.

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 Governor from a list of persons recommended by the Majority Leader of the Senate;

(c) Two members appointed by the Governor from a list of persons recommended by the Speaker of the Assembly; and

(d) One member appointed by the Governor from a list of persons recommended by the Minority Leader of the Senate or the Minority Leader of the Assembly. The Minority Leader of the Senate shall recommend persons for appointment for the initial term, the Minority Leader of the Assembly shall recommend persons for appointment for the next succeeding term, and thereafter, the authority to recommend persons for 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]~~ the Governor makes 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]~~ Governor 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 provide oversight of compliance with Nevada law relating to the activities of each state agency, board, bureau, commission, department [,] or division [or political subdivision] 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 permanent 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] reviewed by the Mining Oversight and Accountability Commission [.] before it is approved pursuant to chapter 233B of NRS by the Legislative Commission or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067. After conducting its review of the regulation, the Mining Oversight and Accountability Commission shall provide a report of its findings and recommendations regarding the regulation to the Legislative Counsel for submission to the Legislative Commission or the Subcommittee to Review Regulations, as appropriate.

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 ~~[.]~~ ***, 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 ~~[.]~~ ***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.

~~[(j)]~~ ***(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; ~~[or]~~

(e) The State of Nevada, in office, clerical or engineering work necessary or proper in connection with any of those operations ~~[.]~~ ***; 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. 12.7. **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, 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 delivering the mineral.

(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) 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 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.

(g) ***All money expended for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for employees actually engaged in mining operations within the State of Nevada.***

(h) 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.

~~[(h)]~~ ***(i)*** 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)]~~ ***(j)*** The costs of Nevada-based corporate services relating to paragraphs (e) to ~~[(h),]~~ ***(i),*** inclusive.

~~[(j)]~~ ***(k)*** The actual cost of developmental work in or about the mine or upon a group of mines when operated as a unit, which is limited to work that is necessary to the operation of the mine or group of mines.

~~[(k)]~~ ***(l)*** The costs of reclamation work in the years the reclamation work occurred, including, without limitation, costs associated with the remediation of a site.

~~[(l)]~~ ***(m)*** 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;

(e) The State of Nevada, in office, clerical or engineering work necessary or proper in connection with any of those operations; 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)]~~ ***(i)*** 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 the Legislature on all matters which it may deem pertinent to the Division, and concerning any specific matters previously requested by the Governor ~~[.]~~ ***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. 16.3. **NRS 517.187 is hereby repealed.**

Sec. 16.7. **1. Any person who paid any fee, interest or penalty imposed pursuant to NRS 517.187 may, on or before June 30, 2013, apply to the Department of Taxation pursuant to this section for a credit or refund of the total amount paid by the person pursuant to NRS 517.187.**

2. Upon the receipt of an application pursuant to subsection 1 and proof to the satisfaction of the Department of Taxation of the total amount paid by the applicant pursuant to NRS 517.187, the Department shall:

(a) Except as otherwise provided in paragraph (b), allow the applicant a credit of the total amount paid by the person pursuant to NRS 517.187 against any liability of the person for the tax imposed pursuant to NRS 363B.110, and carry any unused portion of the credit forward until the credit is exhausted; or

(b) If the Department determines that it is impractical to provide a full credit to the applicant pursuant to paragraph (a), cause to be refunded to the applicant the total amount paid by the applicant pursuant to NRS 517.187.

3. A person who paid any fee, interest or penalty imposed pursuant to NRS 517.187 is not entitled to receive any penalty or interest on the amount paid.

4. The failure of any person to apply to the Department of Taxation pursuant to subsection 1 within the time prescribed constitutes a waiver of any demand against the State for any credit or refund of any fee, interest or penalty paid by or on behalf of the person pursuant to NRS 517.187.

5. Each county recorder shall, upon the request of the Department of Taxation, provide to the Department such documentation as the Department determines to be necessary to verify the total amount paid pursuant to NRS 517.187 by any person who applies to the Department pursuant to subsection 1.

6. All refunds made pursuant to this section must be paid from the State General Fund upon claims presented by the Department of Taxation, approved by the State Board of Examiners, and allowed and paid as other claims against the State are allowed and paid.

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]~~ **section** 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. 17.5. **The amendatory provisions of section 12.7 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 2013.

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 2014 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~~] **section, the Governor shall** appoint to the Mining Oversight and Accountability Commission created by section 5 of this act:

~~[(a)~~] **1.** One member **pursuant to paragraph (a), (b) and (c), respectively, of subsection 1 of that section** whose term expires on June 30, 2012; and

~~[(b)~~] **2.** One member **pursuant to paragraph (a), (b), (c) and (d), respectively, of subsection 1 of that section** 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 become effective upon passage and approval.

2. Section 12.5 of this act becomes effective on January 1, 2012.

3. Section 12.7 of this act becomes effective on January 1, 2014.

TEXT OF REPEALED SECTION

517.187 Additional fee for filing made pursuant to NRS 517.230. [Effective through June 30, 2011.]

1. An additional fee is hereby imposed upon each filing made pursuant to NRS 517.230 regarding a mining claim held by a person who holds 11 or more mining claims in this State on the date of that filing, in the amount determined in accordance with subsection 2. The person making that filing shall remit the fee to the county recorder in such a manner that, at the option of that person:

(a) The fee is paid in full at the time of the filing;

(b) One-half of the fee is paid at the time of the filing and the remainder of the fee is paid not later than June 1 of the calendar year immediately following the filing date; or

(c) The fee is paid in full not later than June 1 of the calendar year immediately following the filing date.

2. If the greatest number of mining claims held in this State by any of the persons who hold any of the mining claims to which a filing made pursuant to NRS 517.230 pertains is:

(a) Not less than 11 and not more than 199 on the date of that filing, the fee imposed by this section is $70 for each mining claim to which the filing pertains.

(b) Not less than 200 and not more than 1,299 on the date of that filing, the fee imposed by this section is $85 for each mining claim to which the filing pertains.

(c) Not less than 1,300 on the date of that filing, the fee imposed by this section is $195 for each mining claim to which the filing pertains.

3. The county recorder shall:

(a) Obtain from each person who makes a filing pursuant to NRS 517.230 an affidavit declaring that the greatest number of mining

claims held in this State on the date of that filing by any of the persons who hold any of the mining claims to which the filing pertains is:

(1) Less than 11;

(2) Not less than 11 and not more than 199;

(3) Not less than 200 and not more than 1,299; or

(4) Not less than 1,300; and

(b) Based upon the information set forth in that affidavit, collect any fee imposed on that filing pursuant to this section.

4. Any person who:

(a) Fails to pay the fee imposed pursuant to this section within the time required shall pay a penalty in the amount of 10 percent of the amount of the fee that is owed, in addition to the fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the date on which the fee is due until the date of payment.

(b) Knowingly makes a false declaration in an affidavit provided to a county recorder pursuant to subsection 3 is guilty of a misdemeanor and shall pay the amount of any additional fee, penalty and interest required pursuant to this section on account of the falsification.

5. The county recorder shall, on or before the fifth working day of each month, deposit with the county treasurer all the fees, penalties and interest imposed pursuant to this section which are collected during the preceding month. The county treasurer shall quarterly remit all money so collected to the State Controller, who shall place the money in the State General Fund.

6. The State Controller shall take such action as may be necessary to ensure that the fees, penalties and interest imposed pursuant to this section are paid in full.

Senator Leslie moved the adoption of the amendment.

Remarks by Senators Leslie and Kieckhefer.

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

SENATOR LESLIE:

Amendment No. 927 to Senate Bill No. 493 revises the process by which appointments are made to the Mining Oversight and Accountability Commission to require members to be recommended rather than directly appointed by the Majority Leader of the Senate, the Speaker of the Assembly and the Minority Leader of each House. The Governor would then make the actual appointment of the members from these recommendations.

The amendment removes the political subdivisions from the list of entities subject to oversight of compliance with Nevada law by the Mining Oversight and Accountability Commission.

The amendment establishes that the Mining Oversight and Accountability Commission shall review, rather than approve, certain permanent regulations adopted by the Nevada Tax Commission in order to become effective.

The amendment provides that the deduction for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for all employees, may not be claimed for purposes of calculating the net proceeds of minerals tax for

FY 2012 and FY 2013 only. Beginning in FY 2014, this deduction is reinstated for employees actually engaged in mining operations within the State of Nevada.

The amendment repeals the provisions of NRS 517.187, which is the Mining Claims Fee enacted during the Twenty-sixth Special Session, and establishes a mechanism to provide a refund or a credit against the Modified Business Tax for any fees already paid pursuant to this provision.

The amendment to Senate Bill No. 493 carries out the legislative policy decision to repeal the additional fee on mining claims enacted during the 2010 Twenty-Six Special Session and codified in the statutes as NRS 517.187. Because we have reached an agreement on the budget, we decided, as a matter of policy, that the collection of this additional fee on mining claims is no longer required at this time, and we are repealing the statute.

However, we want to emphasize that our policy decision was not made because of the recent decision by the Carson City district court finding the statute unconstitutional. We are confident that we would be successful on appeal in overturning the district court's decision because the decision is contrary to the plain language of Article 10 of the *Nevada Constitution*. The decision also conflicts with the history of the 1989 constitutional amendment regarding the net proceeds tax, and it is inconsistent with the contemporaneous legislation enacted by this body in 1989 to implement the constitutional amendment.

That being said, we decided that the better policy choice at this time would be to repeal the mining claim fee statute because it is no longer required under the budget compromise. But, this legislative policy choice must not be interpreted as any type of concurrence with the district court's legal conclusions because we adamantly disagree with those legal conclusions. Our decision to repeal the statute is based entirely on legislative policy. It is not based in any way on the constitutional challenges lodged against the statute.

SENATOR KIECKHEFER:

In Section 16.7 of the bill, it offers a refund or credit for anyone who paid the mining claim fee in the previous biennium. How much is being repaid to the mining industry?

SENATOR LESLIE:

The testimony for our fiscal staff indicated that $4.8 million has been paid. However, we heard from mining industry representatives that $8 million has been paid. We are trying to track down that discrepancy. The money for the mining claims fee is paid to the county recorders and they only have to report that to the State on a quarterly basis.

Amendment adopted.

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

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Senate Bill No. 434, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 72, 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, June 4, 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. 93, 331, 354, 494, 526.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, June 5, 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. 114, 195, 401, 416, 427, 476, 536, 560, 571, 576, 577, 578.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 276, Amendment No. 933; Senate Bill No. 439, Amendment No. 944, and respectfully requests your honorable body to concur in said amendments.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 93.

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

Motion carried.

Assembly Bill No. 114.

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

Motion carried.

Assembly Bill No. 195.

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

Motion carried.

Assembly Bill No. 331.

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

Motion carried.

Assembly Bill No. 354.

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

Motion carried.

Assembly Bill No. 401.

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

Motion carried.

Assembly Bill No. 416.

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

Motion carried.

Assembly Bill No. 427.

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

Motion carried.

Assembly Bill No. 476.

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

Motion carried.

Assembly Bill No. 494.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that the motion whereby Assembly Bill No. 494 was referred to the Committee on Government Affairs be rescinded.

Motion carried.

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

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 526.

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

Motion carried.

Assembly Bill No. 536.

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

Motion carried.

Assembly Bill No. 560.

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

Motion carried.

Assembly Bill No. 571.

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

Motion carried.

Assembly Bill No. 576.

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

Motion carried.

Assembly Bill No. 577.

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

Motion carried.

Assembly Bill No. 578.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 72.

Bill read third time.

Roll call on Senate Bill No. 72:

YEAS—21.

NAYS—None.

Senate Bill No. 72 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 197.

Bill read third time.

Remarks by Senators Denis and Horsford.

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

SENATOR DENIS:

Provisions concerning filing for office and for nominating and electing the elected members are effective for that purpose on January 1, 2012. The provisions affecting the appointed members are effective on January 8, 2013. The terms of all Board members who are incumbent on January 7, 2013, expire on that date. Sections of the bill dealing with the Board's mission and goals and the number and content of certain meetings are effective on January 1, 2013. All other provisions are effective on July 1, 2011. The Superintendent will be effective in March 2013. This is another one of the pieces of education reform that will help us towards our goal of making education better in Nevada. I urge your support.

SENATOR HORSFORD:

I want to commend the Chair of Education for his hard work and that of the Committee on this bill. This is a major reform initiative for K-12 education. To the governance structure, this is something members have attempted to accomplish before. This body unanimously approved legislation in 2009, which reflects many of the reforms which are now being considered by this Legislature. I believe in the provisions of the bill. I think that the Governor should have more of a say in control over the Superintendent for Public Instruction. That the governance of the State Board of Education matters. That is where the leadership is provided to our local school districts. I want to commend the Chair, the members of the Committee and all of the parties involved in the agreement on this bill, including the Governor.

Roll call on Senate Bill No. 197:

YEAS—21.

NAYS—None.

Senate Bill No. 197 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 227.

Bill read third time.

Roll call on Senate Bill No. 227:
YEAS—21.
NAYS—None.

Senate Bill No. 227 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 313.
Bill read third time.

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

Senate in recess at 11:24 p.m.

SENATE IN SESSION

At 11:27 p.m.
President Krolicki presiding.
Quorum present.

Remarks by Senators Hardy and Schneider.
Roll call on Senate Bill No. 313:
YEAS—10.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Horsford, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—11.

Senate Bill No. 313 having failed to receive a two-thirds majority, Mr. President declared it lost.

Senate Bill No. 360.
Bill read third time.
Roll call on Senate Bill No. 360:
YEAS—11.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Senate Bill No. 360 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 371.
Bill read third time.
Remarks by Senator Cegavske.
Senator Cegavske requested that her remarks be entered in the Journal.
Thank you, Mr. President. I want to thank my colleagues from Washoe District No. 1 and Clark District No. 4 for helping pass Senate Bill No. 371 and getting the language worded correctly. I want to thank Kevin Schiller from Washoe County who knows how much we appreciated his work and his efforts on Senate Bill No. 371. Thank you all.

Roll call on Senate Bill No. 371:
YEAS—21.
NAYS—None.

Senate Bill No. 371 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 427.

Bill read third time.

Roll call on Senate Bill No. 427:

YEAS—21.

NAYS—None.

Senate Bill No. 427 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 428.

Bill read third time.

Roll call on Senate Bill No. 428:

YEAS—21.

NAYS—None.

Senate Bill No. 428 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 434.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 868.

"SUMMARY—Makes various changes regarding funding and autonomy of Nevada System of Higher Education. (BDR 31-1175)"

"AN ACT relating to the Nevada System of Higher Education; ~~[~~creating the Nevada System of Higher Education Stabilization Account; requiring the preparation of a separate budget for certain fees imposed by the System;~~]~~ revising provisions governing the retention ~~[~~and use~~]~~ of certain appropriations to the System; ~~[~~temporarily redirecting a portion of the taxes ad valorem levied in Clark and Washoe Counties to the System;~~]~~ revising provisions related to capital improvements constructed by or on behalf of the System; ~~[~~requiring the adoption of certain standards for measuring the preparation of pupils for college; requiring certain annual reports;~~]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[~~ Section 2 of this bill creates the Nevada System of Higher Education Stabilization Account within the Fund to Stabilize the Operation of the State Government, requires the State Controller to deposit money reverted from the Nevada System of Higher Education at the close of the previous fiscal year into that Account and establishes a maximum allowed balance for the Account. Section 2 authorizes the Board of Regents of the University of

~~Nevada to request an allocation from the Account to offset any reserves required to be set aside by the Nevada System of Higher Education.~~

~~Existing law requires the preparation of a budget for the Executive Department of the State Government. (NRS 353.150-353.246) Section 3 of this bill excludes from that budget the tuition charges and other fees assessed by the Board of Regents of the University of Nevada and requires the Board of Regents to present to the Legislature a separate budget for the expenditure of those proceeds.]~~

Section 5 of this bill provides that the portion of any appropriations of money made to the Nevada System of Higher Education from the State General Fund that are not expended during a fiscal year will be retained by the System instead of being returned to the State General Fund**.** ~~[, except for any amounts needed to maintain the maximum allowed balance for the Nevada System of Higher Education Stabilization Account.~~

~~Section 6 of this bill allows the Nevada System of Higher Education to transfer the money included in any appropriations made to the System among any of the budget accounts of the System.~~

~~Existing law authorizes a county to impose an ad valorem tax for capital projects in the amount of 5 cents per $100 of the assessed valuation of the county. (NRS 354.59815) Section 8 of this bill requires the distribution to the Nevada System of Higher Education of a portion of the proceeds of any such tax imposed during the next 2 fiscal years in a county whose population is 100,000 or more (currently Clark and Washoe Counties).]~~

Existing law ~~[requires]~~ **authorizes** the State Public Works Board **, upon the request of the head of a state agency,** to ~~[provide certain services to the Nevada System of Higher Education with respect to capital improvements. (NRS 341.141, 341.155, 341.201) Sections 9-12 of this bill exclude the System from the provisions of chapter 341 of NRS and remove all references to the System from that chapter. Section 14 of this bill requires the Board of Regents of the University of Nevada to manage or provide for the management of the System's capital improvements.]~~ **delegate to the state agency the Board's authority to manage public works projects. (NRS 341.119) Section 9.5 of this bill requires the Board, upon the request of the Board of Regents of the University of Nevada, to delegate that authority to the Nevada System of Higher Education with regard to specific works designated by the Board of Regents of the University of Nevada. Section 17** of this bill ~~[authorizes the Board of Regents,]~~ **requires the State Controller and the State Treasurer,** when specific projects are authorized by the Legislature, to ~~[use]~~ **transfer** money in the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education **to the Board of Regents** for the construction of capital improvement projects for the System.

~~[Section 15 of this bill requires the Board of Regents of the University of Nevada to adopt standards for measuring the preparation of pupils in~~

~~kindergarten through grade 12 to participate successfully in programs of higher education.~~

~~Section 16 of this bill requires the Board of Regents of the University of Nevada to prepare, for dissemination to the Governor and the Legislature, annual reports containing certain information regarding the preparation of students for college and the performance and budgets of the Nevada System of Higher Education.~~

~~Section 18 of this bill requires the distribution to the Nevada System of Higher Education of the portion of the property taxes levied for the next 2 fiscal years for operating purposes by Clark and Washoe Counties at the rate of 4 cents per $100 of assessed valuation.~~]

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 and 3 of this act.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[*1. The Nevada System of Higher Education Stabilization Account is hereby created in the Fund to Stabilize the Operation of the State Government created by NRS 353.288.*~~

~~*2. Except as otherwise provided in subsection 3, the State Controller shall, after the close of the previous fiscal year and before the issuance of the State Controller's annual report, transfer from the State General Fund to the Nevada System of Higher Education Stabilization Account any money which was reverted from the Nevada System of Higher Education to the State General Fund at the close of the previous fiscal year. Money transferred pursuant to this subsection to the Nevada System of Higher Education Stabilization Account is hereby appropriated as a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purposes set forth in this section.*~~

~~*3. The balance in the Nevada System of Higher Education Stabilization Account must not exceed 10 percent of the combined sum of:*~~

~~*(a) Money appropriated by the Legislature to the Nevada System of Higher Education for operating expenses; and*~~

~~*(b) Any revenue from taxes ad valorem approved by the Legislature for expenditure by the Nevada System of Higher Education.*~~

~~*4. Except as otherwise provided in subsection 3, the interest and income earned on the sum of:*~~

~~*(a) The money in the Nevada System of Higher Education Stabilization Account; and*~~

~~*(b) Unexpended appropriations made to the Nevada System of Higher Education Stabilization Account from the State General Fund,*~~

~~*➞ must be credited to the Nevada System of Higher Education Stabilization Account. If the amount of such credit would cause the Account to exceed the maximum allowed balance in the Account established pursuant to subsection 3, the amount of such excess credit must be deposited for credit to*~~

~~*the Fund to Stabilize the Operation of the State Government or, if the amount of such excess credit would cause that Fund to exceed the maximum allowed balance in that Fund established pursuant to subsection 3 of NRS 353.288, the amount of such excess credit must be deposited for credit to the State General Fund.*~~

~~*5. The money in the Nevada System of Higher Education Stabilization Account must not be used to replace or supplant money otherwise available from other sources for the operation of the Nevada System of Higher Education.*~~

~~*6. The money in the Nevada System of Higher Education Stabilization Account may only be allocated by the Legislature or, if the Legislature is not in session, by the Interim Finance Committee pursuant to subsection 7, 8 or 9.*~~

~~*7. If the Board of Regents of the University of Nevada is required to set aside any reserves pursuant to NRS 353.225 or other specific statute and the Legislature is in session, the Board of Regents may submit a request for an allocation from the Nevada System of Higher Education Stabilization Account to the Director of the Legislative Counsel Bureau for transmission to the Legislature. If the Legislature finds that an allocation should be made from the Nevada System of Higher Education Stabilization Account, the Legislature shall by resolution establish the amount and purpose of the allocation and direct the State Controller to transfer that amount to the Nevada System of Higher Education. The State Controller shall thereupon make the transfer.*~~

~~*8. If the Board of Regents of the University of Nevada is required to set aside any reserves pursuant to NRS 353.225 or other specific statute and the Legislature is not in session, the Board of Regents may submit a request for an allocation from the Nevada System of Higher Education Stabilization Account to the State Board of Examiners. The State Board of Examiners shall consider the request and shall, if it finds that an allocation should be made, recommend the amount of the allocation to the Interim Finance Committee for its independent evaluation and action. The Interim Finance Committee is not bound to follow the recommendations of the State Board of Examiners.*~~

~~*9. If the Interim Finance Committee, after independent determination, finds that an allocation should and may lawfully be made from the Nevada System of Higher Education Stabilization Account, the Committee shall by resolution establish the amount and purpose of the allocation and direct the State Controller to transfer that amount to the Nevada System of Higher Education. The State Controller shall thereupon make the transfer. In acting upon a request for an allocation, the Interim Finance Committee shall consider, among other things:*~~

~~*(a) The need for the allocation; and*~~

~~*(b) The intent of the Legislature in creating the Nevada System of Higher Education Stabilization Account.*~~

~~*10. An allocation to offset any reserves required to be set aside by the Board of Regents of the University of Nevada pursuant to NRS 353.225 or other specific statute must be made from the Nevada System of Higher Education Stabilization Account in accordance with this section before any allocation is made from the Fund to Stabilize the Operation of the State Government for the same purpose. No allocation may be made from the Fund to Stabilize the Operation of the State Government to offset any reserves required to be set aside by the Board of Regents of the University of Nevada pursuant to NRS 353.225 or other specific statute until all money which is available in the Nevada System of Higher Education Stabilization Account has been allocated.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~**[***Notwithstanding any other statutory provision to the contrary:~~

~~*1. The proceeds of any tuition charges, registration fees and other fees assessed against students by the Board of Regents of the University of Nevada, and the expenditure of such proceeds, must be excluded from each budget prepared for the Executive Department of the State Government pursuant to NRS 353.150 to 353.245, inclusive.*~~

~~*2. The Board of Regents of the University of Nevada shall submit to the Legislature in the same format as the proposed executive budget a separate budget for the expenditure of the proceeds of any tuition charges, registration fees and other fees assessed against students by the Board of Regents.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~**[**NRS 353.150 is hereby amended to read as follows:~~

~~353.150 NRS 353.150 to 353.246,~~ inclusive, ~~*and section 3 of this act* may be cited as the State Budget Act.**]**~~ **(Deleted by amendment.)**

Sec. 5. NRS 353.253 is hereby amended to read as follows:

353.253 1. Every agency, department and institution of the State of Nevada shall deposit all money received from the Federal Government, the counties or other sources, in the State Treasury as provided in NRS 353.250 unless otherwise provided by law. These deposits must be made to work program accounts directly or to other budget accounts.

2. Except for the balance in any proprietary fund and appropriated or authorized reserves, any balance remaining at the end of a fiscal year in a budget account of an agency, department or institution of the State of Nevada, whether or not authorized for expenditure under a work program, reverts to the source of funding supporting the agency, department or institution. If that source of funding is federal money or a source of revenue the use of which is restricted by statute, then the balance may be authorized for expenditure under a work program for the subsequent fiscal year in accordance with the provisions of this chapter.

3. No provision of this chapter may be construed to authorize or direct the transfer, expenditure or reversion of any money received from the Federal Government contrary to the conditions upon which that money was received or to any federal law or regulation respecting the accountability therefor.

4. ~~[This]~~ ***Except as otherwise provided in subsection 5, this*** section does not apply to the Board of Regents of the University of Nevada and the Nevada State Museum.

5. Any sums appropriated to the Nevada System of Higher Education do not lapse to the State General Fund at the end of any fiscal year . ~~*[except for such amounts as may be necessary to maintain the maximum allowed balance in the Nevada System of Higher Education Stabilization Account.]*~~

Sec. 6. ~~[NRS 353.255 is hereby amended to read as follows:~~

~~353.255 1. [The]~~ ~~*Except as otherwise provided in subsection 2, the*~~ ~~sums appropriated for the various branches of expenditure in the public service of the State [shall]~~ ~~*must*~~ ~~be applied solely to the objects for which they are respectively made, and for no others.~~

~~*2. Any sums appropriated to the Nevada System of Higher Education may be transferred among the various budget accounts of the Nevada System of Higher Education in the same manner and within the same limits as allowed for revisions of work programs in NRS 353.220.*~~

~~*3.* Any person violating the provisions of subsection 1 shall be punished by a fine of not more than $500.~~] **(Deleted by amendment.)**

Sec. 7. ~~[NRS 353.288 is hereby amended to read as follows:~~

~~353.288 1. The Fund to Stabilize the Operation of the State Government is hereby created as a special revenue fund. Except as otherwise provided in subsections 3 and 4, each year after the close of the previous fiscal year and before the issuance of the State Controller's annual report, the State Controller shall transfer from the State General Fund to the Fund to Stabilize the Operation of the State Government:~~

~~(a) Forty percent of the unrestricted balance of the State General Fund, as of the close of the previous fiscal year, which remains after subtracting an amount equal to 7 percent of all appropriations made from the State General Fund during that previous fiscal year for the operation of all departments, institutions and agencies of State Government and for the funding of schools; and~~

~~(b) Commencing with the fiscal year that begins on July 1, 2011, 1 percent of the total anticipated revenue for the fiscal year in which the transfer will be made, as projected by the Economic Forum for that fiscal year pursuant to paragraph (c) of subsection 1 of NRS 353.228 and as adjusted by any legislation enacted by the Legislature that affects state revenue for that fiscal year.~~

~~2. Money transferred pursuant to subsection 1 to the Fund to Stabilize the Operation of the State Government is a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purposes set forth in this section.~~

~~3. The balance in the Fund to Stabilize the Operation of the State Government, excluding the aggregate balance in the Disaster Relief Account and the Emergency Assistance Subaccount, must not exceed 20 percent of~~

~~the total of all appropriations from the State General Fund for the operation of all departments, institutions and agencies of the State Government and for the funding of schools and authorized expenditures from the State General Fund for the regulation of gaming for the fiscal year in which that revenue will be transferred to the Fund to Stabilize the Operation of the State Government.~~

~~4. Except as otherwise provided in this subsection and NRS 353.2735, beginning with the fiscal year that begins on July 1, 2003, the State Controller shall, at the end of each quarter of a fiscal year, transfer from the State General Fund to the Disaster Relief Account created pursuant to NRS 353.2735 an amount equal to not more than 10 percent of the aggregate balance in the Fund to Stabilize the Operation of the State Government during the previous quarter, excluding the aggregate balance in the Disaster Relief Account and the Emergency Assistance Subaccount created pursuant to NRS 414.135. The State Controller shall not transfer more than $500,000 for any quarter pursuant to this subsection.~~

~~5. [The] *Except as otherwise provided in section 2 of this act, the* Chief of the Budget Division of the Department of Administration may submit a request to the State Board of Examiners to transfer money from the Fund to Stabilize the Operation of the State Government to the State General Fund:~~

~~(a) If the total actual revenue of the State falls short by 5 percent or more of the total anticipated revenue for the biennium in which the transfer will be made, as determined by the Legislature, or the Interim Finance Committee if the Legislature is not in session; or~~

~~(b) If the Legislature, or the Interim Finance Committee if the Legislature is not in session, and the Governor declare that a fiscal emergency exists.~~

~~6. The State Board of Examiners shall consider a request made pursuant to subsection 5 and shall, if it finds that a transfer should be made, recommend the amount of the transfer to the Interim Finance Committee for its independent evaluation and action. The Interim Finance Committee is not bound to follow the recommendation of the State Board of Examiners.~~

~~7. If the Interim Finance Committee finds that a transfer recommended by the State Board of Examiners should and may lawfully be made, the Committee shall by resolution establish the amount and direct the State Controller to transfer that amount to the State General Fund. The State Controller shall thereupon make the transfer.~~

~~8. In addition to the manner of allocation authorized pursuant to subsections 5, 6 and 7, the money in the Fund to Stabilize the Operation of the State Government may be allocated directly by the Legislature to be used for any other purpose.]~~ **(Deleted by amendment.)**

Sec. 8. ~~[NRS 354.59815 is hereby amended to read as follows:~~

~~354.59815 1. In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811, the board of county commissioners may levy a tax ad valorem on all taxable property in the county at a rate not to exceed 5 cents per $100 of the assessed valuation of the county.~~

~~2. If a tax is levied pursuant to subsection 1 in:~~

~~(a) A county whose population is less than 100,000, the board of county commissioners shall direct the county treasurer to distribute quarterly the proceeds of the tax among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all of the local governments in the county for the 1990-1991 Fiscal Year.~~

~~(b) A county whose population is 100,000 or more, the board of county commissioners shall direct the county treasurer to distribute quarterly, from the proceeds of the tax for:~~

~~(1) The fiscal year beginning on July 1, 2008:~~

~~(I) Eighty-eight percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and~~

~~(II) Twelve percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.~~

~~(2) The fiscal year beginning on July 1, 2009:~~

~~(I) Seventy-six percent of those proceeds to the State Treasurer for deposit in the State General Fund; and~~

~~(II) Twenty-four percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.~~

~~(3) The fiscal year beginning on July 1, 2010:~~

~~(I) Sixty-four percent of those proceeds to the State Treasurer for deposit in the State General Fund; and~~

~~(II) Thirty-six percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.~~

~~(4) The fiscal year beginning on July 1, 2011 [~~:

~~(I) Fifty-two percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and~~

~~(II) Forty-eight percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.~~

~~(5)]~~ ~~*, all of those proceeds to the Board of Regents of the University of Nevada for the maintenance and support of the Nevada System of Higher Education.*~~

~~*(5) The fiscal year beginning on July 1, 2012, all of those proceeds to the Board of Regents of the University of Nevada for the maintenance and support of the Nevada System of Higher Education.*~~

~~*(6)* Each fiscal year beginning on or after July 1, [2012:]~~ ~~*2013:*~~

~~(I) Forty percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and~~

~~(II) Sixty percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.~~

~~3. The board of county commissioners shall not reduce the rate of any tax levied pursuant to the provisions of subsection 1 without the approval of the State Board of Finance and each of the local governments that receives a portion of the tax, except that, if a local government declines to receive its portion of the tax in a particular year the levy may be reduced by the amount that local government would have received.]~~ **(Deleted by amendment.)**

Sec. 9. ~~[Chapter 341 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*The provisions of this chapter do not apply to capital improvements constructed by or on behalf of the Nevada System of Higher Education.]~~* **(Deleted by amendment.)**

Sec. 9.5. **NRS 341.119 is hereby amended to read as follows:**

341.119 1. Upon the request of the head of a state agency, the Board may delegate to that agency any of the authority granted the Board pursuant to NRS 341.141 to 341.148, inclusive.

2. ***Upon the request of the Board of Regents of the University of Nevada, the State Public Works Board shall delegate to the Nevada System of Higher Education any of the authority granted to the State Public Works Board pursuant to NRS 341.141 to 341.148, inclusive, regarding specific buildings, facilities, improvements and structures designated by the Board of Regents to be constructed by or on behalf of the Nevada System of Higher Education. The Board of Regents shall provide the Manager with such information regarding those specific buildings, facilities, improvements and structures as the Manager determines to be necessary to carry out the provisions of paragraph (g) of subsection 8 of NRS 341.100.***

3. This section does not limit any of the authority of the Legislature when the Legislature is in regular or special session or the Interim Finance Committee when the Legislature is not in regular or special session to consult

with the Board concerning a construction project or to approve the advance planning of a project.

Sec. 10. NRS 341.141 is hereby amended to read as follows:

341.141 1. The Board shall furnish engineering and architectural services to **the Nevada System of Higher Education and all other** ~~[all]~~ state departments, boards or commissions charged with the construction of any building constructed on state property or for which the money is appropriated by the Legislature, except:

(a) Buildings used in maintaining highways;

(b) Improvements, other than nonresidential buildings with more than 1,000 square feet in floor area, made:

(1) In state parks by the State Department of Conservation and Natural Resources; or

(2) By the Department of Wildlife; ~~[and]~~

(c) Buildings on property controlled by other state agencies if the Board has delegated its authority in accordance with ***subsection 1 of*** NRS 341.119 ~~[.]~~ ***; and***

(d) Buildings, facilities, improvements and structures regarding which the Board has delegated its authority to the Nevada System of Higher Education in accordance with subsection 2 of NRS 341.119.

➥ The Board of Regents of the University of Nevada and all ~~[; and~~

~~(d) Buildings, facilities, improvements and structures constructed by or on behalf of the Nevada System of Higher Education.~~

~~➥ All]~~ other state departments, boards or commissions shall use those services.

2. The services must consist of:

(a) Preliminary planning;

(b) Designing;

(c) Estimating of costs; and

(d) Preparation of detailed plans and specifications.

Sec. 11. ~~[NRS 341.155 is hereby amended to read as follows:~~

~~341.155 With the concurrence of the Board, [the Board of Regents of the University of Nevada and any other] any state department, board or commission may enter into agreements with persons, associations or corporations to provide consulting services to determine and plan the construction work that may be necessary to meet the needs of the programs of those agencies. These contracts must [be] :~~

~~1. Be for a term not exceeding 5 years ; and [must provide]~~

~~2. Provide for payment of a fee for those services not to exceed one-half of 1 percent of the total value of [:~~

~~1. In the case of the Nevada System of Higher Education, building construction contracts relating to the construction of a branch or facility within the Nevada System of Higher Education; and~~

~~2. In the case of another state department, board or commission,] all construction contracts relating to construction for [that agency,~~

~~]~~ ~~*the applicable state department, board or commission*~~ ~~during the term and in the area covered by the contract.]~~ **(Deleted by amendment.)**

Sec. 12. ~~[[NRS 341.201 is hereby amended to read as follows:~~

~~341.201 The Board shall inspect all state buildings periodically [, including all buildings at the University of Nevada, Reno, and at the University of Nevada, Las Vegas,] and all physical plant facilities at all state institutions. Reports of all inspections, including findings and recommendations, must be submitted to the appropriate state agencies , and [,] if the Board finds any matter of serious concern in a report, it shall submit that report to the Legislative Commission.]~~ **(Deleted by amendment.)**

Sec. 13. ~~[Chapter 396 of NRS is hereby amended by adding thereto the provisions set forth as sections 14, 15 and 16 of this act.]~~ **(Deleted by amendment.)**

Sec. 14. ~~[*1. The Board of Regents shall manage or cause to be managed all capital improvements constructed by or on behalf of the System.*~~

~~*2. In carrying out the provisions of subsection 1, the Board of Regents may procure or cause to be procured such architectural, consulting, contracting and engineering services as the Board may determine to be necessary or advisable.*~~

~~*3. The Board of Regents shall recommend to the Governor and to the Legislature the priority of construction of any and all buildings, facilities, improvements, structures or other construction work now authorized or that may hereafter be authorized or proposed. The Board shall submit before October 1 of each even-numbered year its recommendations for capital improvements in the next biennium.]*~~ **(Deleted by amendment.)**

Sec. 15. ~~[*The Board of Regents, with the assistance of the Superintendent of Public Instruction, shall adopt standards for determining the extent to which pupils in kindergarten through grade 12 are being prepared to participate successfully in programs of higher education.]*~~ **(Deleted by amendment.)**

Sec. 16. ~~[*1. The Board of Regents shall, on or before February 1 of each year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature an annual report regarding the performance and budgets of the System.*~~

~~*2. The report required by this section must include:*~~

~~*(a) Information for the immediately preceding 5 fiscal years regarding:*~~

~~*(1) The extent to which students first entering the System are prepared to participate successfully in programs of higher education;*~~

~~*(2) The average period of retention of students in the System;*~~

~~*(3) The percentage of students who graduate within a 6-year period from universities and other 4-year programs within the System;*~~

~~*(4) The percentage of students enrolled in community colleges within the System who are:*~~

~~*(I) Placed into positions of employment; or*~~

~~*(II) Transferred to universities or other 4-year programs within the System;*~~

~~*(5) The percentage of students who pass their licensing or certification examinations after completing pertinent programs of study within the System; and*~~

~~*(6) The extent of improvement in the information described in subparagraphs (1) to (5), inclusive, since the immediately preceding annual report;*~~

~~*(b) Budgetary information regarding:*~~

~~*(1) The revenues to be expended within each of the System's functional areas; and*~~

~~*(2) The anticipated amount to be expended from each source of revenue of the System for each full-time student at each institution within the System; and*~~

~~*(c) A description of:*~~

~~*(1) All student fees approved by the Board of Regents; and*~~

~~*(2) The allocation of those fees, as categorized by the purpose of each fee, to the state-supported operating budgets and any self-supporting operating budgets of the System.]*~~ **(Deleted by amendment.)**

Sec. 17. NRS 463.385 is hereby amended to read as follows:

463.385 1. In addition to any other license fees and taxes imposed by this chapter, there is hereby imposed upon each slot machine operated in this State an annual excise tax of $250. If a slot machine is replaced by another, the replacement is not considered a different slot machine for the purpose of imposing this tax.

2. The Commission shall:

(a) Collect the tax annually on or before June 30, as a condition precedent to the issuance of a state gaming license to operate any slot machine for the ensuing fiscal year beginning July 1, from a licensee whose operation is continuing.

(b) Collect the tax in advance from a licensee who begins operation or puts additional slot machines into play during the fiscal year, prorated monthly after July 31.

(c) Include the proceeds of the tax in its reports of state gaming taxes collected.

3. Any other person, including, without limitation, an operator of an inter-casino linked system, who is authorized to receive a share of the revenue from any slot machine that is operated on the premises of a licensee is liable to the licensee for that person's proportionate share of the license fees paid by the licensee pursuant to this section and shall remit or credit the full proportionate share to the licensee on or before the dates set forth in subsection 2. A licensee is not liable to any other person authorized to receive a share of the licensee's revenue from any slot machine that is operated on the premises of a licensee for that person's proportionate share of

the license fees to be remitted or credited to the licensee by that person pursuant to this section.

4. The Commission shall pay over the tax as collected to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund, and the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education, which are hereby created in the State Treasury as special revenue funds, in the amounts and to be expended only for the purposes specified in this section, or for any other purpose authorized by the Legislature.

5. During each fiscal year, the State Treasurer shall deposit the tax paid over to him or her by the Commission as follows:

(a) The first $5,000,000 of the tax in the Capital Construction Fund for Higher Education;

(b) Twenty percent of the tax in the Special Capital Construction Fund for Higher Education; and

(c) The remainder of the tax in the State Distributive School Account in the State General Fund.

6. There is hereby appropriated from the balance in the Special Capital Construction Fund for Higher Education on July 31 of each year the amount necessary to pay the principal and interest due in that fiscal year on the bonds issued pursuant to section 5 of chapter 679, Statutes of Nevada 1979, as amended by chapter 585, Statutes of Nevada 1981, at page 1251, the bonds authorized to be issued by section 2 of chapter 643, Statutes of Nevada 1987, at page 1503, the bonds authorized to be issued by section 2 of chapter 614, Statutes of Nevada 1989, at page 1377, the bonds authorized to be issued by section 2 of chapter 718, Statutes of Nevada 1991, at page 2382, and the bonds authorized to be issued by section 2 of chapter 629, Statutes of Nevada 1997, at page 3106. If in any year the balance in that fund is not sufficient for this purpose, the remainder necessary is hereby appropriated on July 31 from the Capital Construction Fund for Higher Education. The balance remaining unappropriated in the Capital Construction Fund for Higher Education on August 1 of each year and all amounts received thereafter during the fiscal year must be transferred to the State General Fund for the support of higher education. If bonds described in this subsection are refunded and if the amount required to pay the principal of and interest on the refunding bonds in any fiscal year during the term of the bonds is less than the amount that would have been required in the same fiscal year to pay the principal of and the interest on the original bonds if they had not been refunded, there is appropriated to the Nevada System of Higher Education an amount sufficient to pay the principal of and interest on the original bonds, as if they had not been refunded. The amount required to pay the principal of and interest on the refunding bonds must be used for that purpose from the amount appropriated. The amount equal to the saving realized in that fiscal year from the refunding must be used by the Nevada System of Higher Education to

defray, in whole or in part, the expenses of operation and maintenance of the facilities acquired in part with the proceeds of the original bonds.

7. After the requirements of subsection 6 have been met for each fiscal year, when specific projects are authorized by the Legislature, money in the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education **must be transferred by the State Controller and the State Treasurer to the** ~~[State Public Works Board]~~ ~~*[may be used by the]*~~ ***Board of Regents of the University of Nevada*** for the construction of capital improvement projects for the Nevada System of Higher Education, including, but not limited to, capital improvement projects for the community colleges of the Nevada System of Higher Education. As used in this subsection, "construction" includes, but is not limited to, planning, designing, acquiring and developing a site, construction, reconstruction, furnishing, equipping, replacing, repairing, rehabilitating, expanding and remodeling. Any money remaining in either Fund at the end of a fiscal year does not revert to the State General Fund but remains in those Funds for authorized expenditure.

8. The money deposited in the State Distributive School Account in the State General Fund under this section must be apportioned as provided in NRS 387.030 among the several school districts and charter schools of the State at the times and in the manner provided by law.

9. The Board of Regents of the University of Nevada may use any money in the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education for the payment of interest and amortization of principal on bonds and other securities, whether issued before, on or after July 1, 1979, to defray in whole or in part the costs of any capital project authorized by the Legislature.

Sec. 18. ~~[1. Notwithstanding any other statutory provision to the contrary, the County Treasurer of Clark County shall distribute quarterly to the Board of Regents of the University of Nevada for the maintenance and support of the Nevada System of Higher Education, from the proceeds of the taxes ad valorem levied by that County for the operating expenses of the County during the fiscal years beginning on July 1, 2011, and July 1, 2012, the amount of those proceeds attributable to the levy of those taxes on all taxable property in the County at the rate of 4 cents per $100 of assessed valuation. For the purposes of NRS 354.59811, the amount of the proceeds distributed to the Board of Regents pursuant to this subsection shall be deemed to constitute revenue received by Clark County from taxes ad valorem.~~

~~2. Notwithstanding any other statutory provision to the contrary, the County Treasurer of Washoe County shall distribute quarterly to the Board of Regents of the University of Nevada for the maintenance and support of the Nevada System of Higher Education, from the proceeds of the taxes ad valorem levied by that County for the operating expenses of the County during the fiscal years beginning on July 1, 2011, and July 1, 2012, the~~

~~amount of those proceeds attributable to the levy of those taxes on all taxable property in the County at the rate of 4 cents per $100 of assessed valuation. For the purposes of NRS 354.59811, the amount of the proceeds distributed to the Board of Regents pursuant to this subsection shall be deemed to constitute revenue received by Washoe County from taxes ad valorem.]~~ **(Deleted by amendment.)**

Sec. 19. ~~[The amendatory provisions of section 8 of this act must not be applied to modify, directly or indirectly, any taxes levied or revenues pledged in such a manner as to impair adversely any outstanding obligations of this State or of any county, city or town in this State, including, without limitation, bonds, medium-term financing, letters of credit and any other financial obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.]~~ **(Deleted by amendment.)**

Sec. 20. 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.

First, Senate Bill No. 434, as amended, revises NRS Chapter 353 to provide that any monies appropriated by the Legislature to the Nevada System of Higher Education (NSHE) State supported operating budgets do not revert to the State General Fund at the end of each fiscal year.

Second, Senate Bill No. 434, as amended, revises NRS Chapter 341 to provide that upon the request of the Board of Regents, the State Public Works Board shall delegate to the NSHE any of the State Public Works Board's authorities for any specific buildings, facilities, improvements and structures designated by the Board of Regents to be constructed by or on behalf of the NSHE. At present, the State Public Works Board is responsible for determining the entity responsible for managing projects and has the authority to delegate such responsibility.

Finally, Senate Bill No. 434, as amended, revises NRS Chapter 463.385 to provide that the monies allocated to the Higher Education Capital Construction and Special Higher Education Capital Construction funds and authorized for expenditure by the Legislature are to be transferred to the Board of Regents by the State Controller rather than to the State Public Works Board.

Senate Bill No. 434, as amended, is effective July 1, 2011.

Amendment adopted.

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

Senate Bill No. 473.

Bill read third time.

Roll call on Senate Bill No. 473:

YEAS—21.

NAYS—None.

Senate Bill No. 473 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 74.

Bill read third time.

Roll call on Assembly Bill No. 74:

YEAS—21.

NAYS—None.

Assembly Bill No. 74 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 222.

Bill read third time.

Remarks by Senator Denis.

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

Assembly Bill No. 222 creates the Teachers and Leaders Council of Nevada, consisting of 15 members. The Council is authorized to accept gifts, grants, donations and contributions from any source to carry out the provisions of this measure.

The measure requires the Council to make recommendations to the State Board of Education concerning the adoption of regulations for establishing a statewide performance evaluation system for teachers and administrators employed by school districts. Based upon the recommendations of the Council, the State Board of Education is required to adopt regulations establishing an evaluation system that incorporates multiple measures of an employee's performance.

Effective July 1, 2013, the evaluation system will require that at least 50 percent of the evaluation of an individual teacher or administrator be based upon the academic achievement of pupils. In addition, the measure provides that an evaluation of a probationary or postprobationary teacher must include an evaluation of whether the teacher employs practices and strategies to involve and engage the parents and families of pupils in the classroom. If a teacher receives a negative evaluation on the first or second evaluation, or both, the teacher may then request the third evaluation be conducted by another evaluator selected from a list of three candidates submitted by the superintendent of the school district. The bill amends Assembly Bill No. 229, already passed by both houses, to make the bills conform in this regard.

Finally, the evaluation system shall require that an employee's overall performance be determined to be "highly effective," "effective," "minimally effective," or "ineffective." Charter schools are not required to participate in the evaluation system created by the Council. Until implementation of the new performance evaluation system on July 1, 2013, the measure requires each school district to develop a policy for the evaluation of teachers and administrators that requires student achievement to account for a significant portion of the evaluation.

Finally, the measure appropriates from the State General Fund to the Department of Education $32,000 over the biennium to fund the costs of Teachers and Leaders Council.

This will be a good way to be able to evaluate teachers. This has been found to be effective in other states. I urge your support on the bill.

Roll call on Assembly Bill No. 222:

YEAS—14.

NAYS—Brower, Cegavske, Gustavson, Halseth, McGinness, Roberson, Settelmeyer—7.

Assembly Bill No. 222 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 259.

Bill read third time.

Roll call on Assembly Bill No. 259:

YEAS—11.

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

Assembly Bill No. 259 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.

Remarks by Senators Horsford, McGinness, Kieckhefer and Leslie.

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

SENATOR HORSFORD:

There has been a lot of work by many individuals on this bill. On March 10, 2011, we learned that the Department of Taxation had not audited the mining industry's claims for deductions for more than two years. In that time, the level of deductions taken by the industry against its gross yield had greatly increased. Despite the price of gold and the gross proceeds of mines rising rapidly, there was a decline in the net proceeds that served as the basis for taxation of the mining industry, a sure indicator that deductions were growing. In the case of one large mining company, there was a gap of 72 percent between gross and net proceeds.

Just as disturbing, we also learned that the regulations adopted by the Nevada Tax Commission allowed deductions that went far beyond those permitted by State law. For years, the industry had been writing off expenses authorized by regulation that were not allowed for by law.

I petitioned as a private citizen to the Nevada Tax Commission to review those regulations, which they accepted and are doing, but one of the things that the Tax Commission members said is that we as the Legislative Body needed to better clarify those deductions that are allowable and those that should not be allowed.

State law did not allow for deductions for sales tax. But, there were regulations adopted by the Taxation Committee that permitted them.

State law does not allow companies to deduct out-of-state expenses including out-of-state corporate salaries. The Tax Commission has regulations allowing for them.

State law does not permit deductions for employee vacation pay, sick leave, bonuses and contributions to retirement plans. The Tax Commission approved regulations allowing them.

State law did not authorize deductions for employee housing, but the Tax Commission agreed to let mining companies take them.

Senate Bill No. 493 closes these loopholes and others, which brings our system more in line. Generally, the bill puts in statute what deductions the mining industry is allowed rather than relying solely on the Nevada Tax Commission to draw up those regulations, which over the years have been heavily influenced by the industry and go further than the intent of State law, as I have indicated.

Another important provision of the bill is the establishment of the new Mining Oversight and Accountability Commission, which will provide an additional layer of oversight to the regulations that are developed by the areas of taxation, safety, as well as environmental protection. It allows for that review prior to the approval of the Legislative Commission of any final regulations.

I believe this is necessary in order to have a good tax policy and to ensure that those taxes that are due to the State of Nevada are paid and that necessary loopholes are closed. I urge the body's approval of Senate Bill No. 493, and I would like to thank the Chair of the Revenue Committee for her hard work on this bill, as well.

SENATOR MCGINNESS:

Thank you, Mr. President. I voted against this bill in Committee. As it stands, now, I will support it. I was very concerned about the Oversight Committee. I felt the umbrella was too big and had too much power, but some of that has been trimmed back. We should take a fair and objective look at mining, not just go into the meetings with the objective of getting mining, because it is sexy to steal gold bars from people. We need to make certain they have a fair and equitable hearing during the interim. I will be supporting this bill.

SENATOR KIECKHEFER:

Thank you, Mr. President. I wanted to ask, since this is a bill that will increase revenue for the State, how much are we expecting to get out of this as a part of the budget agreement?

SENATOR LESLIE:

Thank you, Mr. President. I believe the net result of the deductions we are removing will generate about $12 million per year, to the State and an equal amount to the counties.

SENATOR KIECKHEFER:

Are there any additional revenues that the mining industry is going to be giving to the State to help solve our budget for the next biennium, aside from the $12 million per year?

SENATOR LESLIE:

I hope so, but I am not aware of any. They pay the same taxes through the Modified Business Tax.

SENATOR KIECKHEFER:

There is no additional revenue they are making as a part of a deal.

SENATOR LESLIE:

Not that I am aware of. If you are referring to the media accounts where mining was going to write a check, no.

SENATOR KIECKHEFER:

I have agreed to support the budget agreement as it was crafted with the revenue that is included in this bill as a component of that agreement. I will be supporting this bill. I am concerned, however, that some of the reform measures that were agreed to in those negotiations may not be living up to the expectations of my side of the aisle. If that is the case, then I believe the agreements that were reached are not necessarily being met. I want to put it on the record that I am prepared not to vote for additional revenue measures that come forward if the agreement that was reached is not lived up to.

Roll call on Senate Bill No. 493:

YEAS—16.

NAYS—Brower, Gustavson, Halseth, Rhoads, Roberson—5.

Senate Bill No. 493 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Senate Bill No. 193, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 568 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 3, which is attached to and hereby made a part of this report.

"SUMMARY—Makes various changes concerning the State Board of Cosmetology and persons and practices regulated by the Board. (BDR 54-637)"

"AN ACT relating to cosmetology; revising certain provisions governing schools of cosmetology; establishing the procedures for the licensure of certain persons who engage in the practice of hair braiding and persons who operate an establishment for hair braiding; revising provisions relating to the regulation of sanitary conditions; revising provisions relating to the licensure of various cosmetology professionals and cosmetological establishments; ~~[repealing a provision]~~ **revising provisions** relating to the ~~[provision of a]~~ surety bond ~~[by]~~ **requirements for** a school of cosmetology; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Board of Cosmetology to determine the qualifications of applicants for various licenses in cosmetology, requires the Board to license schools of cosmetology, and authorizes the Board to adopt regulations governing the sanitary conditions in cosmetological establishments, schools of cosmetology and in the practice of cosmetology. (NRS 644.090, 644.120)

~~[Section 6 of this bill: (1) prohibits a school of cosmetology from collecting the entire amount of the cost for a program at the school of cosmetology from a student of cosmetology when the student enters into a contract with the school of cosmetology; (2) authorizes a school of cosmetology to collect certain periodic payments from students; and (3) requires a school of cosmetology to use the contract for enrollment that was submitted to and approved by the Board.]~~ **Section 6.5 of this bill requires each school of cosmetology to: (1) obtain a surety bond in accordance with regulations adopted by the Board; or (2) provide for payment plans, including plans for periodic payments, in accordance with regulations adopted by the Board. The regulations regarding periodic payments must, as the Board determines appropriate, be modeled after certain federal regulations that provide payment periods for certain federal educational loans and grants.**

Sections 7-9 of this bill establish a new license as a hair braider and set forth the requirements, including passing certain examinations, that must be met before the Board may issue such a license to a person. **Section 7** sets forth the requirements for obtaining such a license for persons who have not previously practiced hair braiding or who have practiced hair braiding in this State on certain relatives without accepting compensation. **Section 8** sets forth the requirements for persons who have practiced hair braiding in another state. **Section 9** sets forth the scope of the examinations that are required to obtain a license to practice hair braiding. **Section 24** of this bill provides an exemption from the licensure requirements for a person who, without accepting compensation, practices hair braiding on a person who is related within the sixth degree of consanguinity.

Section 10 of this bill establishes a new license for persons who wish to operate an establishment for hair braiding and sets forth the requirements that must be met before the Board may issue such a license. **Sections 11-16** of this bill set forth additional requirements governing an establishment for hair braiding, including, without limitation, requirements relating to the notice which must be provided to the Board concerning a change of ownership or location and requirements relating to the qualifications of the person who must supervise the operation of such an establishment.

Under existing law, the Board is also required to provide for the registration of any person who engages in the practice of threading, and is authorized to inspect any facility in which threading is conducted. (NRS 644.331) **Section 22** of this bill authorizes the Board to include the practice of threading and any facility in which it is conducted in its regulations regarding sanitary conditions. **Sections 26-31 and 35** of this bill add United States citizenship or the legal right to remain and work in the United States to the requirements for applicants seeking licensure by the Board.

Existing law requires that schools of cosmetology post with the Board a surety bond as part of licensure. (NRS 644.383) **Section 43** of this bill repeals that requirement.

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

Section 1. NRS 640C.100 is hereby amended to read as follows:

640C.100 1. The provisions of this chapter do not apply to:

(a) A person licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 640, 640A or 640B of NRS if the massage therapy is performed in the course of the practice for which the person is licensed.

(b) A person licensed as a barber or apprentice pursuant to chapter 643 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for a barber or apprentice pursuant to that chapter.

(c) A person licensed or registered as an aesthetician, ***hair designer, hair braider,*** cosmetologist or cosmetologist's apprentice pursuant to chapter 644 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for an aesthetician, ***hair designer, hair braider,*** cosmetologist or cosmetologist's apprentice pursuant to that chapter.

(d) A person who is an employee of an athletic department of any high school, college or university in this State and who, within the scope of that employment, practices massage therapy on athletes.

(e) Students enrolled in a school of massage therapy recognized by the Board.

(f) A person who practices massage therapy solely on members of his or her immediate family.

(g) A person who performs any activity in a licensed brothel.

2. Except as otherwise provided in subsection 3, the provisions of this chapter preempt the licensure and regulation of a massage therapist by a county, city or town, including, without limitation, conducting a criminal background investigation and examination of a massage therapist or applicant for a license to practice massage therapy.

3. The provisions of this chapter do not prohibit a county, city or town from requiring a massage therapist to obtain a license or permit to transact business within the jurisdiction of the county, city or town, if the license or permit is required of other persons, regardless of occupation or profession, who transact business within the jurisdiction of the county, city or town.

4. As used in this section, "immediate family" means persons who are related by blood, adoption or marriage, within the second degree of consanguinity or affinity.

Sec. 2. Chapter 644 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 16, inclusive, of this act.

Sec. 3. ***"Establishment for hair braiding" means any premises, mobile unit, building or part of a building where hair braiding is practiced, other than a cosmetological establishment.***

Sec. 4. ***"Hair braider" means any person who engages in the practice of hair braiding.***

Sec. 5. ***1. "Hair braiding" means a natural form of hair manipulation by braiding, cornrowing, extending, lacing, locking, sewing, twisting, weaving or wrapping human hair, natural fibers, synthetic fibers and hair extensions. The practice may be performed by hand or by using simple braiding devices, including, without limitation, clips, combs, hairpins, scissors, needles and thread.***

2. The term includes:

(a) Cleansing the scalp; and

(b) The making of customized wigs from natural hair, natural fibers, synthetic fibers and hair extensions.

3. The term does not include:

(a) The use of penetrating chemical hair treatments, chemical hair coloring agents, chemical hair straightening agents, chemical hair joining agents, permanent wave styles or chemical hair bleaching agents applied to growing human hair;

(b) The cutting or growing of human hair, except that the term includes the trimming of hair extensions or sewn weave-in extensions only as applicable to the braiding process; or

(c) Any other activity set forth in the definition of "cosmetologist" pursuant to NRS 644.023 other than the activities expressly set forth in subsections 1 and 2.

Sec. 6. ~~[1. A school of cosmetology shall not:~~

~~(a) Collect the entire amount of the cost for a program at the school of cosmetology from a student of cosmetology at the time the student enters into a contract with the school of cosmetology; or~~

~~*(b) Except for an initial payment of not more than 25 percent of the total amount of the cost for the program at the school, invoice or collect from a student a periodic payment toward the cost for the quarter of the program at the school of cosmetology until at least 75 percent of the instruction in the curriculum of the immediately preceding quarter of the program has been completed.*~~

~~*2. A school of cosmetology shall use the contract for the enrollment of a student in a program at the school of cosmetology that was submitted to and approved by the Board, including any revisions approved by the Board pursuant to subsection 3, to contract with the student of cosmetology. The approved contract must include, without limitation:*~~

~~*(a) A notice indicating that the school of cosmetology is not required to post a surety bond with the Board; and*~~

~~*(b) A provision indicating that the school of cosmetology is authorized to collect:*~~

~~*(1) Not more than 25 percent of the total amount of the cost for the program at the school of cosmetology from a student at the time the student enters into the contract with the school of cosmetology; and*~~

~~*(2) Additional periodic payments in increments of not more than 25 percent of the total amount of the cost for the program for each quarter of the program. This amount may be collected by the school of cosmetology when at least 75 percent of the instruction in the curriculum of the immediately preceding quarter of the program has been completed.*~~

~~*3. The school of cosmetology shall submit to the Board for its approval a notice detailing any revisions to the approved contract. The revisions must be approved by the Board before the school of cosmetology may use the revised contract. The revisions shall be deemed to be approved by the Board if the revisions are not disapproved by the Board within 60 days after their submission to the Board.*~~

~~*4. The Board:*~~

~~*(a) Shall respond to any complaints with regard to a contract between a school of cosmetology and a student of cosmetology; and*~~

~~*(b) If the Board or its staff has reason to believe that a school of cosmetology has not complied with any provisions governing such a contract, may require the school of cosmetology to submit for review its current contract for the enrollment of a student or may conduct an inspection of the school of cosmetology.]*~~ **(Deleted by amendment.)**

Sec. 6.5. 1. Each school of cosmetology shall:

(a) Obtain a surety bond in accordance with regulations adopted by the Board; or

(b) Provide for payment plans, including plans for periodic payments, in accordance with regulations adopted by the Board.

2. The Board shall adopt regulations regarding surety bonds and payment plans for purposes of subsection 1. The regulations regarding periodic payments must, as the Board determines appropriate, be modeled after 34 C.F.R. § 668.4.

Sec. 7. ***1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has applied to the Board in proper form and paid the fee, and who:***

(a) Is not less than 18 years of age.

(b) Is of good moral character.

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

(d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has not practiced hair braiding previously:

(1) Has completed a minimum of 250 hours of training and education as follows:

(I) Fifty hours concerning the laws of Nevada and the regulations of the Board relating to cosmetology;

(II) Seventy-five hours concerning infection control and sanitation;

(III) Seventy-five hours regarding the health of the scalp and the skin of the human body; and

(IV) Fifty hours of clinical practice; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

(f) If the person has practiced hair braiding in this State on a person who is related within the sixth degree of consanguinity without a license and without charging a fee:

(1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year on such a relative; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United States;

(2) The birth certificate of the applicant;

(3) The current passport issued to the applicant; or

(4) A voter registration card issued to the applicant pursuant to NRS 293.517.

Sec. 8. *1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has practiced hair braiding in another state, has applied to the Board in proper form and paid a fee of $200, and who:*

(a) Is not less than 18 years of age.

(b) Is of good moral character.

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

(d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has practiced hair braiding in another state in accordance with a license issued in that other state:

(1) Has submitted to the Board proof of the license; and

(2) Has passed the written tests described in section 9 of this act.

(f) If the person has practiced hair braiding in another state without a license and it is legal in that state to practice hair braiding without a license:

(1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United States;

(2) The birth certificate of the applicant;

(3) The current passport issued to the applicant; or

(4) A voter registration card issued to the applicant pursuant to NRS 293.517.

Sec. 9. *1. The examination for licensure as a hair braider pursuant to paragraph (e) of subsection 1 of section 8 of this act must include:*

(a) A written test on antisepsis, sterilization and sanitation; and

(b) A written test on the laws of Nevada and the regulations of the Board relating to cosmetology.

2. The examination for licensure as a hair braider pursuant to section 7 or paragraph (f) of subsection 1 of section 8 of this act must include:

(a) The written tests described in subsection 1; and

(b) A practical demonstration in hair braiding.

Sec. 10. ***1. Any person wishing to operate an establishment for hair braiding must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain a detailed floor plan of the proposed establishment for hair braiding and proof of any particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker.***

2. The applicant must submit the application accompanied by the required fees for inspection and licensing. After the applicant has submitted the application, the applicant must contact the Board and request a verbal review concerning the application to determine if the establishment for hair braiding complies with the requirements of this chapter and any regulations adopted by the Board. If, based on the verbal review, the Board determines that the establishment for hair braiding meets those requirements, the Board shall issue to the applicant the required license. Upon receipt of the license, the applicant must contact the Board to request the activation of the license. A license issued pursuant to this subsection is not valid until it is activated. The Board shall conduct an on-site inspection of the establishment for hair braiding not later than 90 days after the date on which the license is activated.

3. The fee for a license for an establishment for hair braiding is $200. The fee for the initial inspection is $15. If an additional inspection is necessary, the fee is $25.

Sec. 11. ***1. The Board must be notified of any change of ownership, name, services offered or location of an establishment for hair braiding. The establishment may not be operated after the change until a new license is issued. The owner of the establishment must apply to the Board for the license and pay the fees established pursuant to subsection 3 of section 10 of this act.***

2. After a license has been issued for the operation of an establishment for hair braiding, any changes in the physical structure of the establishment must be approved by the Board.

Sec. 12. ***1. The license of an establishment for hair braiding expires 2 years after the date of issuance or renewal of the license.***

2. If the owner of an establishment for hair braiding fails to pay the required fee for renewal of its license within 90 days after the date of expiration of the license, the establishment must be immediately closed.

Sec. 13. ***Every holder of a license issued by the Board to operate an establishment for hair braiding shall display the license in plain view of members of the general public in the principal office or place of business of the holder.***

Sec. 14. ***Hair braiding may be practiced in an establishment for hair braiding by licensed hair braiders, hair designers or cosmetologists who are:***

1. Employees of the owner of the establishment; or

2. Lessees of space from the owner of the establishment.

Sec. 15. ***An establishment for hair braiding must, at all times, be under the immediate supervision of a licensed hair braider, hair designer or cosmetologist.***

Sec. 16. ***Food or beverages for immediate consumption may be sold in an establishment for hair braiding.***

Sec. 17. NRS 644.020 is hereby amended to read as follows:

644.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 644.0205 to 644.0295, inclusive, ***and sections 3, 4 and 5 of this act*** have the meanings ascribed to them in those sections.

Sec. 18. NRS 644.0205 is hereby amended to read as follows:

644.0205 1. "Aesthetician" means any person who engages in the practices of:

(a) Beautifying, massaging, cleansing or stimulating the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or any device, electrical or otherwise, for the care of the skin;

(b) Applying cosmetics or eyelashes to any person, tinting eyelashes and eyebrows, and lightening hair on the body; and

(c) Removing superfluous hair from the body of any person by the use of depilatories, waxing, tweezers or sugaring,

➥ but does not include the branches of cosmetology of a cosmetologist, hair designer, ***hair braider,*** electrologist or nail technologist.

2. As used in this section, "depilatories" does not include the practice of threading.

Sec. 19. NRS 644.024 is hereby amended to read as follows:

644.024 "Cosmetology" includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, ***hair braider,*** demonstrator of cosmetics and nail technologist.

Sec. 20. NRS 644.090 is hereby amended to read as follows:

644.090 The Board shall:

1. Hold examinations to determine the qualifications of all applicants for a license, except as otherwise provided in this chapter, whose applications have been submitted to it in proper form.

2. Issue licenses to such applicants as may be entitled thereto.

3. License ***establishments for hair braiding,*** cosmetological establishments and schools of cosmetology.

4. Report to the proper prosecuting officers all violations of this chapter coming within its knowledge.

5. Inspect schools of cosmetology ***, establishments for hair braiding*** and cosmetological establishments to ensure compliance with the statutory requirements and adopted regulations of the Board. This authority extends to any member of the Board or its authorized employees.

Sec. 21. NRS 644.110 is hereby amended to read as follows:

644.110 The Board shall adopt reasonable regulations:

1. For carrying out the provisions of this chapter.

2. For conducting examinations of applicants for licenses.

3. For governing the recognition of, and the credits to be given to, the study of cosmetology under a licensed electrologist or in a school of cosmetology licensed pursuant to the laws of another state or territory of the United States or the District of Columbia.

4. For governing the conduct of schools of cosmetology. The regulations must include but need not be limited to, provisions:

(a) Prohibiting schools from requiring that students purchase beauty supplies for use in the course of study;

(b) Prohibiting schools from deducting earned hours of school credit or any other compensation earned by a student as a punishment for misbehavior of the student;

(c) Providing for lunch and coffee recesses for students during school hours; and

(d) Allowing a member or an authorized employee of the Board to review the records of a student's training and attendance.

5. Governing the courses of study and practical training required of persons for treating the skin of the human body.

6. For governing the conduct of cosmetological establishments.

7. As the Board determines are necessary for governing the conduct of establishments for hair braiding.

Sec. 22. NRS 644.120 is hereby amended to read as follows:

644.120 1. The Board may adopt such regulations governing sanitary conditions as it deems necessary with particular reference to the precautions to be employed to prevent the creating or spreading of infectious or contagious diseases ***in the practice of hair braiding, in establishments for hair braiding, in the practice of a cosmetologist,*** in cosmetological establishments or schools of cosmetology, ~~[or in the practice of a cosmetologist.]~~ ***in the practice of threading and in any facility in this State in which threading is conducted.***

2. No regulation governing sanitary conditions thus adopted has any effect until it has been approved by the State Board of Health.

3. A copy of all regulations governing sanitary conditions which are adopted must be furnished to each person to whom a license is issued for the conduct of a cosmetological establishment, ***establishment for hair braiding,*** school of cosmetology or practice of cosmetology.

Sec. 23. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license of every nail technologist, electrologist, aesthetician, hair

designer, ***hair braider,*** demonstrator of cosmetics and cosmetologist, together with the names and addresses of all ***establishments for hair braiding,*** cosmetological establishments and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee.

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee.

Sec. 24. NRS 644.190 is hereby amended to read as follows:

644.190 1. It is unlawful for any person to conduct or operate a cosmetological establishment, ***an establishment for hair braiding, a*** school of cosmetology or any other place of business in which any one or any combination of the occupations of cosmetology are taught or practiced unless the person is licensed in accordance with the provisions of this chapter.

2. Except as otherwise provided in ~~[~~subsection 4,~~]~~ ***subsections 4 and 5,*** it is unlawful for any person to engage in, or attempt to engage in, the practice of cosmetology or any branch thereof, whether for compensation or otherwise, unless the person is licensed in accordance with the provisions of this chapter.

3. This chapter does not prohibit:

(a) Any student in any school of cosmetology established pursuant to the provisions of this chapter from engaging, in the school and as a student, in work connected with any branch or any combination of branches of cosmetology in the school.

(b) An electrologist's apprentice from participating in a course of practical training and study.

(c) A person issued a provisional license as an instructor pursuant to NRS 644.193 from acting as an instructor and accepting compensation therefor while accumulating the hours of training as a teacher required for an instructor's license.

(d) The rendering of cosmetological services by a person who is licensed in accordance with the provisions of this chapter, if those services are rendered in connection with photographic services provided by a photographer.

(e) A registered cosmetologist's apprentice from engaging in the practice of cosmetology under the immediate supervision of a licensed cosmetologist.

4. A person employed to render cosmetological services in the course of and incidental to the production of a motion picture, television program, commercial or advertisement is exempt from the licensing requirements of this chapter if he or she renders cosmetological services only to persons who will appear in that motion picture, television program, commercial or advertisement.

5. A person practicing hair braiding is exempt from the licensing requirements of this chapter applicable to hair braiding if the hair braiding is practiced on a person who is related within the sixth degree of consanguinity and the person does not accept compensation for the hair braiding.

Sec. 25. NRS 644.193 is hereby amended to read as follows:

644.193 1. The Board may grant a provisional license as an instructor to a person who:

(a) Has successfully completed the 12th grade in school or its equivalent and submits written verification of the completion of his or her education;

(b) Has practiced as a full-time licensed cosmetologist, hair designer, ***hair braider,*** aesthetician or nail technologist for 1 year and submits written verification of his or her experience;

(c) Is licensed pursuant to this chapter;

(d) Applies for a provisional license on a form supplied by the Board;

(e) Submits two current photographs of himself or herself; and

(f) Has paid the fee established pursuant to subsection 2.

2. The Board shall establish and collect a fee of not less than $40 and not more than $75 for the issuance of a provisional license as an instructor.

3. A person issued a provisional license pursuant to this section may act as an instructor for compensation while accumulating the number of hours of training required for an instructor's license.

4. A provisional license as an instructor expires upon accumulation by the licensee of the number of hours of training required for an instructor's license or 1 year after the date of issuance, whichever occurs first. The Board may grant an extension of not more than 45 days to those provisional licensees who have applied to the Board for examination as instructors and are awaiting examination.

Sec. 26. NRS 644.200 is hereby amended to read as follows:

644.200 The Board shall admit to examination for a license as a cosmetologist, at any meeting of the Board held to conduct examinations, any person who has made application to the Board in proper form and paid the fee, and who before or on the date of the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed the 10th grade in school or its equivalent. Testing for equivalency must be pursuant to applicable state or federal requirements.
~~[4.]~~ ***5.*** Has had any one of the following:

(a) Training of at least 1,800 hours, extending over a school term of 10 months, in a school of cosmetology approved by the Board.

(b) Practice of the occupation of a cosmetologist for a period of 4 years outside this State.

(c) If the applicant is a barber registered pursuant to chapter 643 of NRS, 400 hours of specialized training approved by the Board.

(d) Completion of at least 3,600 hours of service as a cosmetologist's apprentice in a licensed cosmetological establishment in which all of the occupations of cosmetology are practiced. The required hours must have been completed during the period of validity of the certificate of registration as a cosmetologist's apprentice issued to the person pursuant to NRS 644.217.

Sec. 27. NRS 644.203 is hereby amended to read as follows:

644.203 The Board shall admit to examination for a license as an electrologist any person who has made application to the Board in the proper form and paid the fee, and who before or on the date set for the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed the 12th grade in school or its equivalent.
~~[4.]~~ ***5.*** Has or has completed any one of the following:

(a) A minimum training of 500 hours under the immediate supervision of an approved electrologist in an approved school in which the practice is taught.

(b) Study of the practice for at least 1,000 hours extending over a period of 5 consecutive months, under an electrologist licensed pursuant to this chapter, in an approved program for electrologist's apprentices.

(c) A valid electrologist's license issued by a state whose licensing requirements are equal to or greater than those of this State.

(d) Either training or practice, or a combination of training and practice, in electrology outside this State for a period specified by regulations of the Board.

Sec. 28. NRS 644.204 is hereby amended to read as follows:

644.204 The Board shall admit to examination for a license as a hair designer, at any meeting of the Board held to conduct examinations, each person who has applied to the Board in proper form and paid the fee, and who:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed the 10th grade in school or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.
~~[4.]~~ ***5.*** Has had at least one of the following:

(a) Training of at least 1,200 hours, extending over a period of 7 consecutive months, in a school of cosmetology approved by the Board.

(b) Practice of the occupation of hair designing for at least 4 years outside this State.

(c) If the applicant is a barber registered pursuant to chapter 643 of NRS, 400 hours of specialized training approved by the Board.

Sec. 29. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a nail technologist any person who has made application to the Board in proper form, paid the fee and who, before or on the date of the examination:

1. Is not less than 18 years of age.

2. Is of good moral character.

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***

4. Has successfully completed the 10th grade in school or its equivalent.

~~[4.]~~ ***5.*** Has had any one of the following:

(a) Practical training of at least 600 hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed nail technologist for 1 year outside the State of Nevada.

Sec. 30. NRS 644.206 is hereby amended to read as follows:

644.206 The Board shall admit to examination for a license as a demonstrator of cosmetics any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;

2. Is of good moral character;

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States;***

4. Has completed a course provided by the Board relating to sanitation; and

~~[4.]~~ ***5.*** Except as otherwise provided in NRS 622.090, has received a score of not less than 75 percent on the examination administered by the Board.

Sec. 31. NRS 644.207 is hereby amended to read as follows:

644.207 The Board shall admit to examination for a license as an aesthetician any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;

2. Is of good moral character;

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States;***

4. Has successfully completed the 10th grade in school or its equivalent; and

~~[4.]~~ ***5.*** Has received a minimum of 900 hours of training, which includes theory, modeling and practice, in a licensed school of cosmetology or who has practiced as a full-time licensed aesthetician for at least 1 year.

Sec. 32. NRS 644.220 is hereby amended to read as follows:

644.220 1. In addition to the fee for an application, the fees for examination are:

(a) For examination as a cosmetologist, not less than $75 and not more than $200.

(b) For examination as an electrologist, not less than $75 and not more than $200.

(c) For examination as a hair designer, not less than $75 and not more than $200.

(d) ***For examination as a hair braider, $110.***

(e) For examination as a nail technologist, not less than $75 and not more than $200.

~~[(e)]~~ ***(f)*** For examination as an aesthetician, not less than $75 and not more than $200.

~~[(f)]~~ ***(g)*** For examination as an instructor of aesthetics, hair designers, cosmetology or nail technology, not less than $75 and not more than $200.

~~[The~~

2. Except as otherwise provided in this subsection, the fee for each reexamination is not less than $75 and not more than $200.

~~[2.]~~ ***The fee for reexamination as a hair braider is $110.***

3. In addition to the fee for an application, the fee for examination or reexamination as a demonstrator of cosmetics is $75.

~~[3.]~~ ***4.*** Each applicant referred to in subsections 1 and ~~[2]~~ ***3*** shall, in addition to the fees specified therein, pay the reasonable value of all supplies necessary to be used in the examination.

Sec. 33. NRS 644.260 is hereby amended to read as follows:

644.260 The Board shall issue a license as a cosmetologist, aesthetician, electrologist, hair designer, ***hair braider,*** nail technologist, demonstrator of cosmetics or instructor to each applicant who:

1. Passes a satisfactory examination, conducted by the Board to determine his or her fitness to practice that occupation of cosmetology; and
2. Complies with such other requirements as are prescribed in this chapter for the issuance of the license.

Sec. 34. NRS 644.300 is hereby amended to read as follows:

644.300 Every licensed nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** demonstrator of cosmetics or cosmetologist shall, within 30 days after changing his or her place of business, as designated in the records of the Board, notify the Secretary of the Board of the new place of business. Upon receipt of the notification, the Secretary shall make the necessary change in the records.

Sec. 35. NRS 644.310 is hereby amended to read as follows:

644.310 ~~[Upon]~~ ***Except as otherwise provided in section 8 of this act, upon*** application to the Board, accompanied by a fee of $200, a person currently licensed in any branch of cosmetology under the laws of another state or territory of the United States or the District of Columbia may, without examination, unless the Board sees fit to require an examination, be granted a license to practice the occupation in which the applicant was previously licensed upon proof satisfactory to the Board that the applicant:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. ***Has successfully completed a nationally recognized written examination in this State or in the state or territory or the District of Columbia in which he or she is licensed.***
5. ~~[4.]~~ Is currently licensed in another state or territory or the District of Columbia.

Sec. 36. NRS 644.320 is hereby amended to read as follows:

644.320 1. The license of every cosmetologist, aesthetician, electrologist, hair designer, ***hair braider,*** nail technologist, demonstrator of cosmetics and instructor expires:

(a) If the last name of the licensee begins with the letter "A" through the letter "M," on the date of birth of the licensee in the next succeeding odd-numbered year or such other date in that year as specified by the Board.

(b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.

2. The Board shall adopt regulations governing the proration of the fee required for initial licenses ***, other than initial licenses as a hair braider,*** issued for less than 1 1/2 years.

3. Except as otherwise provided in this section, the fee for an initial license as a hair braider is $70. The fee for an initial license as a hair braider issued by the Board for:

(a) At least a portion of 1 month but less than 6 months is $17.50.

(b) Six months or more but less than 12 months is $35.00.

(c) Twelve months or more but less than 18 months is $52.50.

Sec. 37. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

(a) Made on a form prescribed and furnished by the Board;

(b) Made on or before the date for renewal specified by the Board;

(c) Accompanied by the fee for renewal; and

(d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For nail technologists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than $50 and not more than $100.

(b) ***For hair braiders, $70.***

(c) For instructors, not less than $60 and not more than $100.

~~[(c)]~~ ***(d)*** For cosmetological establishments, not less than $100 and not more than $200.

~~[(d)]~~ ***(e) For establishments for hair braiding, $70.***

(f) For schools of cosmetology, not less than $500 and not more than $800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of $50 for a school of cosmetology and $20 for ***an establishment for hair braiding,*** a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, ***hair braider,*** aesthetician, electrologist, nail technologist, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 ½ inches. The name and address of the applicant must be written on the back of each photograph.

5. Before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, ***hair braider,*** aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control in a professional course or seminar approved by the Board.

Sec. 38. NRS 644.330 is hereby amended to read as follows:

644.330 1. A nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** cosmetologist, demonstrator of cosmetics or instructor whose license has expired may have his or her license renewed only upon payment of all required fees and submission of all information required to complete the renewal.

2. Any nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** cosmetologist, demonstrator of cosmetics or instructor who retires from practice for more than 1 year may have his or her license restored only upon payment of all required fees and submission of all information required to complete the restoration.

3. No nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** cosmetologist, demonstrator of cosmetics or instructor who has retired from practice for more than 4 years may have his or her license restored without examination and must comply with any additional requirements established in regulations adopted by the Board.

Sec. 39. NRS 644.350 is hereby amended to read as follows:

644.350 1. The license of every cosmetological establishment expires ~~[~~:

~~(a) If the last name of the owner begins with the letter "A" through the letter "M," on the date of birth of the owner in the next succeeding odd-numbered year.~~

~~(b) If the last name of the owner begins with the letter "N" through the letter "Z," on the date of birth of the owner in the next succeeding even-numbered year.~~

~~2. If a cosmetological establishment has more than one owner, the Board shall designate one of the owners whose last name will be used for the purpose of determining the date of expiration of the license of the cosmetological establishment.~~

~~3.~~ ~~]~~ ***2 years after the date of issuance or renewal of the license.***

2. If a cosmetological establishment fails to pay the required fee for renewal of its license within 90 days after the date of expiration of the license, the establishment must be immediately closed.

Sec. 40. NRS 644.380 is hereby amended to read as follows:

644.380 1. Any person desiring to conduct a school of cosmetology in which any one or any combination of the occupations of cosmetology are taught must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain proof of the particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker. The forms must be accompanied by:

(a) A detailed floor plan of the proposed school;

(b) The name, address and number of the license of the manager or person in charge and of each instructor;

(c) Evidence of financial ability to provide the facilities and equipment required by regulations of the Board and to maintain the operation of the proposed school for 1 year;

(d) Proof that the proposed school will commence operation with an enrollment of not less than 25 bona fide students;

(e) The annual fee for a license; ~~[and]~~

(f) ***A copy of the contract for the enrollment of a student in a program at the school of cosmetology; and***

(g) The name and address of the person designated to accept service of process.

2. Upon receipt by the Board of the application, the Board shall, before issuing a license, determine whether the proposed school:

(a) Is suitably located.

(b) Contains at least 5,000 square feet of floor space and adequate equipment.

(c) ***Has a contract for the enrollment of a student in a program at the school of cosmetology that is approved by the Board.***

(d) Meets all requirements established by regulations of the Board.

3. The annual fee for a license for a school of cosmetology is not less than $500 and not more than $800.

4. If the ownership of the school changes or the school moves to a new location, the school may not be operated until a new license is issued by the Board.

5. After a license has been issued for the operation of a school of cosmetology, the licensee must obtain the approval of the Board before making any changes in the physical structure of the school.

Sec. 41. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of ***an establishment for hair braiding,*** a cosmetological establishment, a licensed aesthetician, cosmetologist, hair designer, ***hair braider,*** electrologist, instructor, nail technologist, demonstrator of cosmetics or school of cosmetology, or a cosmetologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.

(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license as provided in NRS 644.290, 644.360 and 644.410 ~~[.]~~ ***and section 13 of this act.***

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license;

(b) Revoke or suspend a license;

(c) Place the licensee on probation for a specified period;

(d) Impose a fine not to exceed $2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

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

Sec. 42. NRS 644.472 is hereby amended to read as follows:

644.472 1. Except as otherwise provided in subsection 2, it is unlawful for any animal to be on the premises of a licensed ***establishment for hair braiding or*** cosmetological establishment.

2. An aquarium may be maintained on the premises of a licensed ***establishment for hair braiding or*** cosmetological establishment.

Sec. 43. NRS 644.383 is hereby repealed.

Sec. 44. The provisions of this act apply to contracts entered into on or after July 1, 2011.

Sec. 45. ~~[Each school of cosmetology licensed before July 1, 2011, before entering into a contract for the enrollment of a student in a program at the school of cosmetology, shall obtain the Board's approval of the contract. Thereafter, any revisions to the approved contract must be approved in accordance with section 6 of this act.]~~ **(Deleted by amendment.)**

Sec. 46. 1. The State Board of Cosmetology shall:

(a) On July 1, 2011, begin issuing licenses:

(1) To practice as a hair braider; and

(2) To operate an establishment for hair braiding.

(b) On or before July 1, 2011, adopt any regulations that the Board determines are necessary to enable the Board to begin issuing the licenses described in paragraph (a) on July 1, 2011.

2. As used in this section:

(a) "Establishment for hair braiding" has the meaning ascribed to it in section 3 of this act.

(b) "Hair braider" has the meaning ascribed to it in section 4 of this act.

(c) "Hair braiding" has the meaning ascribed to it in section 5 of this act.

Sec. 47. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks, including, without limitation, the approval of contracts, as needed to carry out the provisions of this act; and

2. On July 1, 2011, for all other purposes.

TEXT OF REPEALED SECTION

644.383 Surety bond.

1. The owner of each school of cosmetology shall post with the Board a surety bond executed by the applicant as principal and by a surety company as surety. If the license for the school was issued:

(a) On or before June 30, 2005, the bond must be in the amount of $10,000; or

(b) On or after July 1, 2005, except as otherwise provided in subsections 6 and 7, the bond must be in the amount determined by the Board pursuant to subsections 2 to 5, inclusive.

2. The amount of the bond required for a school of cosmetology pursuant to paragraph (b) of subsection 1 is the total of the amounts of the bonds for all of the programs offered by the school, except that:

(a) The total amount determined pursuant to subsections 3, 4 and 5 must be rounded down to the nearest $5,000; and

(b) The amount of the bond required for the school must not be less than $10,000 or more than $400,000.

3. Except as otherwise provided in subsection 4, the amount of the bond for a program at a school of cosmetology is equal to the cost to be paid by a student for the program multiplied by the number of students who will enroll in the program each year.

4. If the length of a program at a school of cosmetology is less than 1 year, the amount of the bond for that program is equal to the amount determined pursuant to subsection 3 divided by 52 and multiplied by the number of whole or partial weeks in the program.

5. Except as otherwise provided in subsection 2, the amount of the bond required for a school of cosmetology pursuant to paragraph (b) of subsection 1 must be reduced to 12 percent of the total of the amounts calculated pursuant to subsections 3 and 4 if the school participates in:

(a) Any program of student assistance pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et. seq.; or

(b) Any other program administered by the United States Department of Education through which students at the school receive loans.

6. If a school of cosmetology has been licensed for not less than 5 years, the Board shall set the amount of the bond required pursuant to paragraph (b) of subsection 1 for the school:

(a) In the amount of $10,000, if the Board did not receive any valid complaints against the school during the immediately preceding 5 years;

(b) In an amount not less than $10,000 and not more than the amount calculated pursuant to subsections 2 to 5, inclusive, if the Board received one or more valid complaints against the school during the immediately preceding 5 years and the Board determines that each such complaint was a complaint of a minor violation of the provisions of this chapter or of any regulations adopted pursuant to this chapter; and

(c) In the amount calculated pursuant to subsections 2 to 5, inclusive, if the Board received one or more valid complaints against the school during the immediately preceding 5 years and the Board determines that any such complaint was a complaint of a major violation of the provisions of this chapter or any regulations adopted pursuant thereto.

7. The bond required for a school of cosmetology must be in the amount of $10,000 if the school:

(a) Is initially licensed on or before June 30, 2005;

(b) Has been continuously licensed since June 30, 2005; and

(c) Is relocated and obtains a license for the new location on or after July 1, 2005.

8. The bond must be in the form approved by the Board and must be conditioned upon compliance with the provisions of this chapter and upon faithful compliance with the terms and conditions of any contracts, verbal or written, made by the school to furnish instruction to any person. The bond must be to the State of Nevada in favor of every person who pays or deposits money with the school as payment for instruction. A bond continues in effect until notice of termination is given by registered or certified mail to the Board, and every bond must set forth this fact.

9. A person claiming to be injured or damaged by an act of the school may maintain an action in any court of competent jurisdiction on the bond against the school and the surety named therein, or either of them, for refund of tuition paid. Any judgment against the principal or surety in any such action must include the costs thereof and those incident to the bringing of the action, including a reasonable attorney's fee. The aggregate liability of the surety to all such persons may not exceed the sum of the bond.

10. The Board shall adopt regulations defining the terms "minor violation" and "major violation" for the purposes of subsection 6.

SHIRLEY BREEDEN	MAGGIE CARLTON
ALLISON COPENING	KELVIN ATKINSON
JOE HARDY	TOM GRADY
Senate Conference Committee	*Assembly Conference Committee*

Senator Breeden moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 193.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Assembly Bill No. 136, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 693 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 5, which is attached to and hereby made a part of this report.

"SUMMARY—Revises provisions governing ~~[credits for offenders sentenced for certain crimes.]~~ **criminal laws.** (BDR 16-634)"

"AN ACT relating to ~~[offenders;]~~ **criminal laws;** revising provisions governing credits for offenders sentenced for certain crimes; **revising provisions governing the sealing and removal of certain records;** 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, except in certain circumstances. (NRS 209.4465) ~~[This]~~ **Section 1 of 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]~~ **Section 1** further provides that an offender convicted of a category B 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, except in certain circumstances.

Existing law authorizes a person arrested for alleged criminal conduct to petition for the sealing of all records relating to the arrest if the charges were dismissed or the person was acquitted of the charges. (NRS 179.255) Section 1.3 of this bill authorizes such a person to petition for the sealing of all records relating to an arrest if the prosecuting attorney declines to prosecute the charges.

Existing law also provides that a person arrested, or issued a citation or a warrant, for alleged criminal conduct may apply to the Central Repository for Nevada Records of Criminal History to remove the record of criminal history if the charge was dismissed, acquittal was entered or the disposition of the charge was favorable to the accused. (NRS 179A.160) Section 1.7 of this bill authorizes such a person to apply to have the record of criminal history removed if the prosecuting attorney declined to prosecute the charges.

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; ~~[or]~~

(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) ~~[A]~~ ***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) Has not served five or more separate terms of imprisonment for five separate felony convictions, regardless of the jurisdiction in which the offender was convicted;

(d) 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)]*~~ ***(e) Is not serving a sentence for violating the provisions of NRS 202.360.***

Sec. 1.3. **NRS 179.255 is hereby amended to read as follows:**

179.255 1. If a person has been arrested for alleged criminal conduct and the charges are dismissed ***, the prosecuting attorney having jurisdiction declined prosecution of the charges*** or such person is acquitted of the charges, the person may petition:

(a) The court in which the charges were dismissed, at any time after the date the charges were dismissed; ~~[or]~~

(b) ***The court having jurisdiction in which the charges were declined for prosecution, at any time after 180 days after the date of the declination; or***

(c) The court in which the acquittal was entered, at any time after the date of the acquittal,

➥ for the sealing of all records relating to the arrest and the proceedings leading to the dismissal ***, declination*** or acquittal.

2. If the conviction of a person is set aside pursuant to NRS 458A.240, the person may petition the court that set aside the conviction, at any time after the conviction has been set aside, for the sealing of all records relating to the setting aside of the conviction.

3. A petition filed pursuant to subsection 1 or 2 must:

(a) Be accompanied by a current, verified record of the criminal history of the petitioner received from the local law enforcement agency of the city or county in which the petitioner appeared in court;

(b) Include a list of any other public or private agency, company, official and other custodian of records that is reasonably known to the petitioner to have possession of records of the arrest and of the proceedings leading to the dismissal ***, declination*** or acquittal and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

4. Upon receiving a petition pursuant to subsection 1, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the charges were dismissed ***, declined for prosecution*** or the acquittal was entered in a district court or justice court, the prosecuting attorney for the county; or

(b) If the charges were dismissed ***, declined for prosecution*** or the acquittal was entered in a municipal court, the prosecuting attorney for the city.

➥ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

5. Upon receiving a petition pursuant to subsection 2, the court shall notify:

(a) If the conviction was set aside in a district court or justice court, the prosecuting attorney for the county; or

(b) If the conviction was set aside in a municipal court, the prosecuting attorney for the city.

➥ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

6. If, after the hearing on a petition submitted pursuant to subsection 1, the court finds that there has been an acquittal ***, that the prosecution was declined*** or that the charges were dismissed and there is no evidence that further action will be brought against the person, the court may order sealed all records of the arrest and of the proceedings leading to the acquittal ***, declination*** or dismissal which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

7. If, after the hearing on a petition submitted pursuant to subsection 2, the court finds that the conviction of the petitioner was set aside pursuant to NRS 458A.240, the court may order sealed all records relating to the setting aside of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

8. If the prosecuting attorney having jurisdiction previously declined prosecution of the charges and the records of the arrest have been sealed, the prosecuting attorney may subsequently file the charges at any time before the running of the statute of limitations for those charges. If such charges are filed with the court, the court shall order the inspection of the records without the prosecuting attorney having to petition the court pursuant to NRS 179.295.

Sec. 1.5. **NRS 179.295 is hereby amended to read as follows:**

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section ***, subsection 8 of NRS 179.255*** and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or a similar offense and that there is sufficient evidence reasonably to conclude that the person will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 in determining whether to grant a petition pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 for a conviction of another offense.

Sec. 1.7. **NRS 179A.160 is hereby amended to read as follows:**

179A.160 1. If a person has been arrested or issued a citation, or has been the subject of a warrant for alleged criminal conduct and the person is acquitted of the charge or the disposition of the charge is favorable to the person, at any time after the charge is dismissed, acquittal is entered or disposition of the charge in favor of the person is final, the person who is the subject of a record of criminal history relating to the arrest, citation or warrant may apply in writing to the Central Repository and the agency which maintains the record to have it removed from the files which are available and generally searched for the purpose of responding to inquiries concerning the criminal history of a person.

2. ***If a person has been arrested or issued a citation, or has been the subject of a warrant for alleged criminal conduct and the prosecuting attorney having jurisdiction declined prosecution, at any time after 180 days after the declination, the person who is the subject of a***

record of criminal history relating to the arrest, citation or warrant may apply in writing to the Central Repository and the agency which maintains the record to have it removed from the files which are available and generally searched for the purpose of responding to inquiries concerning the criminal history of a person.

3. The Central Repository and the agency shall remove the record unless:

(a) The defendant is a fugitive;

(b) The case is under active prosecution according to a current certificate of a prosecuting attorney;

(c) The disposition of the case was a deferred prosecution, plea bargain or other similar disposition;

(d) The person who is the subject of the record has a prior conviction for a felony or gross misdemeanor in any jurisdiction in the United States; or

(e) The person who is the subject of the record has been arrested for or charged with another crime, other than a minor traffic violation, since the arrest, citation or warrant which the person seeks to have removed from the record.

~~[3.]~~ ***4.*** This section does not restrict the authority of a court to order the deletion or modification of a record in a particular cause or concerning a particular person or event.

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 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.

VALERIE WIENER	WILLIAM HORNE
SHIRLEY BREEDEN	JASON FRIERSON
MIKE MCGINNESS	SCOTT HAMMOND
Senate Conference Committee	*Assembly Conference Committee*

Senator Wiener moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 136.

Motion carried by a constitutional majority.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Schneider, Breeden and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 99.

President Krolicki appointed Senators Breeden, Copening and Settelmeyer as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 168.

President Krolicki appointed Senators Schneider, Copening and Settelmeyer as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 294.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Assembly Bill No. 282 be taken from Unfinished Business and placed on Unfinished Business 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 12:04 a.m.

SENATE IN SESSION

At 1:14 a.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 5, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 71.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 219, 405, 484, 561.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 5; Assembly Concurrent Resolution No. 12.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 12.

Senator Wiener moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 71.

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

Motion carried.

Assembly Bill No. 219.

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

Motion carried.

Assembly Bill No. 405.

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

Motion carried.

Assembly Bill No. 484.

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

Motion carried.

Assembly Bill No. 561.

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

Motion carried.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Senate Bill No. 136, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 811 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 11, which is attached to and hereby made a part of this report.

"SUMMARY—Revises certain provisions governing financial ~~[institutions.]~~ **organizations.** (BDR 55-737)"

"AN ACT relating to financial ~~[institutions;]~~ **organizations;** 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; **revising the period after which certain property is presumed to be abandoned;** 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 8.5 of this bill reduces from 3 years to 2 years the period after which unclaimed property is presumed to be abandoned property if the holder of the property reported holding more than $10 million in property presumed abandoned on the most recent report filed by the holder.

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 **certain** 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. 8.5. **NRS 120A.500 is hereby amended to read as follows:**

120A.500 1. Except as otherwise provided in ~~[subsection 6,]~~ ***subsections 6 and 7,*** property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(a) A traveler's check, 15 years after issuance;

(b) A money order, 7 years after issuance;

(c) Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

(d) Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;

(e) A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(f) Except as otherwise provided in NRS 120A.520, any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(h) Any property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;

(i) Any property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;

(j) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;

(k) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;

(l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(m) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

(n) All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

2. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

3. Property is unclaimed if, for the applicable period set forth in subsection 1 ~~[,]~~ ***or 7, as applicable,*** the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

4. An indication of an owner's interest in property includes:

(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(c) The making of a deposit to or withdrawal from a bank account; and

(d) The payment of a premium with respect to a property interest in an insurance policy, but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

5. Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

6. The following property clearly designated as such must not be presumed abandoned because of inactivity or failure to make a demand:

(a) An account or asset managed through a guardianship;

(b) An account blocked at the direction of a court;

(c) A trust account established to address a special need;

(d) A qualified income trust account;

(e) A trust account established for tuition purposes;

(f) A trust account established on behalf of a client; and

(g) An account or fund established to meet the costs of burial.

7. For property described in paragraphs (c), (d), (e), (f) and (n) of subsection 1, the 3-year period described in each of those paragraphs must be reduced to a 2-year period if the holder of the property reported more than $10 million in property presumed abandoned on the holder's most recent report of abandoned property made pursuant to NRS 120A.560.

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 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 a portion of the assets of the person held by the financial institution sufficient to cover the debt 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. 11. This act becomes effective upon passage and approval.

MICHAEL SCHNEIDER	MARCUS CONKLIN
ALLISON COPENING	IRENE BUSTAMANTE ADAMS
JAMES SETTELMEYER	PAT HICKEY
Senate Conference Committee	*Assembly Conference Committee*

Senator Schneider moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 136.

Remarks by Senator Schneider.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Senate Bill No. 268, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 833 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 8, which is attached to and hereby made a part of this report.

"SUMMARY—Revises provisions relating to public works. (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 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 3 years. **Sections 26 and 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 28 and 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 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 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 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 8-22** 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 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 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 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 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 profession 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. 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 . [, 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.]~~ **(Deleted by amendment.)**

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 ~~[.]~~ ***, 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 ~~[.]~~ ***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 ~~[.]~~ ***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.]~~ ***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 ~~[.]~~ ***, and sections 3, 4 and 5 of this act.***

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 [, 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.]~~ **(Deleted by amendment.)**

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 ~~[;]~~ ***, 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 ~~[.]~~ ***;***

(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 ~~[~~:

~~(a) Shall~~] ***shall*** terminate negotiations with that applicant ~~[;]~~ and *:*

~~[(b)]~~ ***(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 ~~[.]~~ ***; 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 ~~[~~:

~~(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 ~~[.]~~ ***; 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. 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 ~~[.]~~ ***; 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. 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 a certificate of eligibility to receive a preference in bidding on public works 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 preference in

bidding on public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body ~~[~~, ~~at a regularly scheduled meeting,]~~ ***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 **.** ~~[~~; ~~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; ~~[or]~~

(b) Relieves a person of an obligation or liability imposed by the provisions of NRS 338.400 to 338.645, inclusive ~~[.]~~ ***;***

(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. 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 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. 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.

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. 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. 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. 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 become effective:

(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 those sections; and

(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.

JOHN LEE	MARILYN KIRKPATRICK
MICHAEL SCHNEIDER	RICHARD (SKIP) DALY
JOE HARDY	LYNN STEWART
Senate Conference Committee	*Assembly Conference Committee*

Senator Lee moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 268.

Motion carried by a constitutional majority.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 18, 19, 30, 32, 34, 36, 55, 82, 101, 125, 140, 143, 150, 151, 191, 204, 215, 238, 254, 259, 264, 267, 289, 292, 307, 329, 381, 403, 414, 419, 426, 432, 472; Senate Joint Resolution No. 3; Assembly Bills Nos. 40, 48, 80, 100, 148, 223, 224, 247, 255, 359, 432, 529, 531, 570; Assembly Concurrent Resolution No. 10.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator McGinness, the privilege of the Floor of the Senate Chamber for this day was extended for former Senator Maurice Washington.

Senator Horsford moved that the Senate adjourn until Monday, June 6, 2011, at 10 a.m.

Motion carried.

Senate adjourned at 1:29 a.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate