

THE SEVENTY-SECOND DAY

CARSON CITY (Tuesday), April 19, 2011

Assembly called to order at 11:28 a.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Gary Grite.

Our Father in Heaven, we ask this morning that You would give us all wisdom. Please help us take any selfishness out of our heart, so we can more effectively help our fellow man. Raise us to love. Lift us to empathy. Give us everything we need to do good today. Thank You for Your blessing. In the name of Jesus, we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 215, 221, 398, 441, 537, 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 Commerce and Labor, to which were referred Assembly Bills Nos. 267, 292, 299, 429, 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 Commerce and Labor, 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, without recommendation, and rerefer to the Committee on Ways and Means.

KELVIN ATKINSON, *Chair*

Mr. Speaker:

Your Committee on Education, to which were referred Assembly Bills Nos. 227, 546, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID P. BOBZIEN, *Chair*

Mr. Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 9, 181, 269, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chair*

Mr. Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which were referred Assembly Bills Nos. 368, 503, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

Mr. Speaker:

Your Committee on Transportation, to which were referred Assembly Bills Nos. 212, 374, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Transportation, to which was referred Assembly Bill No. 508, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN DONDERO LOOP, *Chair*

COMMUNICATIONS

UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20510-7012

April 6, 2011

THE HONORABLE JOHN OCEGUERA, *Speaker*, Nevada State Assembly, Legislative Building,
401 South Carson Street, Carson City, Nevada 89701

DEAR SPEAKER OCEGUERA:

This letter serves as a formal request to address the Nevada Legislature at the joint session held on the evening of Monday, April 25, 2011 at 5 p.m. My understanding is that this date and time is available.

If further action or information is necessary please do not hesitate to contact me or district director Grant Hewitt in my Las Vegas district office at 702-387-4941.

Thank you for your consideration of this request.

Sincerely,
DR. JOE HECK
Member of Congress

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

April 15, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 405.

RICK Combs
Fiscal Analysis Division

April 19, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 401 if the amendment proposed by the committee on Judiciary is adopted by the Assembly.

RICK COMBS
Fiscal Analysis Division

Assemblyman Conklin moved that Assembly Bills Nos. 9, 181, 212, 215, 221, 227, 267, 269, 292, 299, 307, 368, 374, 398, 429, 441, 503, 508, 537, and 546, just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Conklin moved that Assembly Bills Nos. 151 and 405 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 9.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary: Amendment No. 153.

SUMMARY—~~Provides for the collection of additional~~ **Revises provisions relating to fees charged and collected** in justice courts. (BDR 1-322)

AN ACT relating to courts; ~~requiring a justice of the peace to charge and collect certain additional fees;~~ revising certain ~~civil filing~~ fees in the justice court; **requiring the county treasurer to deposit a portion of the fees received from justice courts into a special account to be used for certain purposes;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each justice of the peace to charge and collect certain fees for various civil actions, proceedings and filings in the justice court. For actions and proceedings other than small claims, the amount of the fees charged and collected is based upon the sum claimed in the action or proceeding. **Each justice of the peace shall pay to the county treasurer all such fees charged and collected, with certain exceptions.** (NRS 4.060) ~~Section 2 of this~~ **This** bill increases the amount of the fees charged and collected by ~~revising~~ **the justice court and revises** the tiers upon which ~~the~~ **certain** fees are based.

~~Section 1 of this bill requires each justice of the peace to charge and collect additional fees for various civil actions, proceedings and filings in the justice court. Fifty percent of the additional fees collected must be deposited in a special account administered by the county for the sole benefit of the justice courts in the county, subject to judicial oversight, and must not be used to supplant existing appropriations made to the justice courts within the county.~~ **This bill also requires the county treasurer to deposit 25 percent of the fees received from justices of the peace into a special account administered by the county and maintained for the benefit of the justice courts within the county. The money in the account must be used only: (1) to offset the costs for adding or maintaining new judicial departments; and (2) if any money remains in the account in a fiscal year after satisfying such offset of costs, for other purposes generally related to the acquisition of land or facilities or the construction or renovation of facilities for the justice courts or a regional justice center that includes the justice courts.**

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

Section 1. ~~[Chapter 4 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Except as otherwise provided in this section and by specific statute and in addition to any other fee required by law, including, without limitation, any fees required by NRS 4.060, each justice of the peace shall charge and collect the following fees:~~

~~(a) On the commencement of any action or proceeding in the justice court, other than in actions commenced pursuant to chapter 73 of NRS, to be paid by the party commencing the action:~~

~~If the sum claimed does not exceed \$1,000 \$22.00~~

~~If the sum claimed exceeds \$1,000 but does not exceed \$10,000 50.00~~

~~In all civil actions for unlawful detainer pursuant to NRS 40.250~~

~~to 40.254, inclusive 225.00~~

~~In all other civil actions 22.00~~

~~(b) For the preparation and filing of an affidavit and order in an action commenced pursuant to chapter 73 of NRS, if the sum claimed does not exceed \$5,000 \$20.00~~

~~(c) On the appearance of any defendant, or any number of defendants answering jointly, to be paid by the defendant or defendants on filing the first paper in the action, or at the time of appearance:~~

~~In all civil actions \$13.00~~

~~For every additional defendant, appearing separately 9.00~~

~~(d) No fee may be charged where a defendant or defendants appear in response to an affidavit and order issued pursuant to the provisions of chapter 73 of NRS.~~

~~(e) For the filing of any paper in intervention \$9.00~~

~~(f) 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, other than a writ of restitution \$19.00~~

~~(g) For filing a notice of appeal, and appeal bonds \$8.00~~

~~One charge only may be made if both papers are filed at the same time.~~

~~(h) For issuing supersedeas to a writ designed to enforce a judgment or order of the court \$8.00~~

~~(i) For preparation and transmittal of transcript and papers on appeal \$9.00~~

~~(j) For entering judgment by confession \$44.00~~

~~(k) For preparing any copy of any record, proceeding or paper, for each page \$2.00~~

~~(l) For each certificate of the clerk, under the seal of the court \$2.00~~

~~(m) For searching records or files in his or her office, for each year \$2.00~~

~~(n) For filing and acting upon each bail or property bond \$10.00~~

~~(e) For the issuance of any writ of restitution \$75.00~~

~~2. A justice of the peace shall not charge or collect any of the fees set forth in subsection 1 for any service rendered by the justice of the peace to the county in which his or her township is located.~~

~~3. The justice of the peace shall, on or before the fifth day of each month, account for and pay to the county treasurer all fees collected during the preceding month pursuant to subsection 1.~~

~~4. The county treasurer shall deposit 50 percent of the fees received each month pursuant to subsection 3 into a special account administered by the county for the sole benefit of the justice courts within the county, subject to judicial oversight. The money deposited:~~

~~(a) Must not be used to supplant existing appropriations made to the justice courts within the county;~~

~~(b) Must be carried over to the next fiscal year if any balance remains at the end of the fiscal year; and~~

~~(c) Must not revert to the county general fund.} (Deleted by amendment.)~~

Sec. 2. NRS 4.060 is hereby amended to read as follows:

4.060 1. Except as otherwise provided in this section and NRS 33.017 to 33.100, inclusive, each justice of the peace shall charge and collect the following fees:

(a) On the commencement of any action or proceeding in the justice court, other than in actions commenced pursuant to chapter 73 of NRS, to be paid by the party commencing the action:

If the sum claimed does not exceed ~~[\$1,000]~~ \$28.00

~~If the sum claimed exceeds \$1,000 but does not exceed \$2,500.....50.00~~

If the sum claimed exceeds \$2,500 but does not exceed ~~[\$4,500]~~

\$5,000.....100.00

~~If the sum claimed exceeds \$4,500 but does not exceed~~

~~\$6,500.....125.00~~

~~If the sum claimed exceeds \$6,500 but does not exceed \$7,500 150.00~~

If the sum claimed exceeds ~~[\$7,500]~~ \$5,000 but does not exceed

\$10,000.....175.00

In all civil actions for unlawful detainer pursuant

to NRS 40.250 to 40.254, inclusive.....225.00

In all other civil actions.....~~128.00~~ 50.00

(b) For the preparation and filing of an affidavit and order in an action commenced pursuant to chapter 73 of NRS:

If the sum claimed does not exceed \$1,000.....~~25.00~~ 45.00

If the sum claimed exceeds \$1,000 but does not exceed \$2,500.....~~45.00~~ 65.00

If the sum claimed exceeds \$2,500 but does not exceed

\$5,000.....85.00

(c) On the appearance of any defendant, or any number of defendants answering jointly, to be paid by the defendant or defendants on filing the first paper in the action, or at the time of appearance:

In all civil actions.....~~[\$12.00]~~ **\$50.00**

For every additional defendant, appearing separately.....~~[\$6.00]~~ **\$25.00**

(d) No fee may be charged where a defendant or defendants appear in response to an affidavit and order issued pursuant to the provisions of chapter 73 of NRS.

(e) For the filing of any paper in intervention.....~~[\$6.00]~~ **\$25.00**

(f) 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, **other than a writ of restitution**.....~~[\$6.00]~~ **\$25.00**

(g) **For the issuance of any writ of restitution**.....**\$75.00**

(h) For filing a notice of appeal, and appeal bonds.....~~[\$12.00]~~ **\$25.00**

One charge only may be made if both papers are filed at the same time.

~~[(h)]~~ **(i)** For issuing supersedeas to a writ designed to enforce a judgment or order of the court.....~~[\$12.00]~~ **\$25.00**

~~[(i)]~~ **(j)** For preparation and transmittal of transcript and papers on appeal.....~~[\$12.00]~~ **\$25.00**

~~[(j)]~~ **(k)** For celebrating a marriage and returning the certificate to the county recorder or county clerk.....\$50.00

~~[(k)]~~ **(l)** For entering judgment by confession.....~~[\$6.00]~~ **\$50.00**

~~[(l)]~~ **(m)** For preparing any copy of any record, proceeding or paper, for each page.....~~[\$.30]~~ **\$.50**

~~[(m)]~~ **(n)** For each certificate of the clerk, under the seal of the Court.....~~[\$3.00]~~ **5.00**

~~[(n)]~~ **(o)** For searching records or files in his or her office, for each year~~[\$1.00]~~ **\$3.00**

~~[(o)]~~ **(p)** For filing and acting upon each bail or property Bond.....~~[\$40.00]~~ **\$50.00**

2. A justice of the peace shall not charge or collect any of the fees set forth in subsection 1 for any service rendered by the justice of the peace to the county in which his or her township is located.

3. A justice of the peace shall not charge or collect the fee pursuant to paragraph ~~[(k)]~~ **(k)** of subsection 1 if the justice of the peace performs a marriage ceremony in a commissioner township.

4. Except as otherwise provided by an ordinance adopted pursuant to the provisions of NRS 244.207, the justice of the peace shall, on or before the fifth day of each month, account for and pay to the county treasurer all fees collected **pursuant to subsection 1** during the preceding month, except for the fees the justice of the peace may retain as compensation and the fees the justice of the peace is required to pay to the State Controller pursuant to subsection 5.

5. The justice of the peace shall, on or before the fifth day of each month, pay to the State Controller:

(a) An amount equal to \$5 of each fee collected pursuant to paragraph ~~(c)~~ **(k)** of subsection 1 during the preceding month. The State Controller shall deposit the money in the Account for Aid for Victims of Domestic Violence in the State General Fund.

(b) One-half of the fees collected pursuant to paragraph ~~(c)~~ **(p)** of subsection 1 during the preceding month. The State Controller shall deposit the money in the Fund for the Compensation of Victims of Crime.

6. The county treasurer shall deposit 25 percent of the fees received pursuant to subsection 4 into a special account administered by the county and maintained for the benefit of the justice courts within the county. 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; and

(b) If any money remains in the account in a fiscal year after satisfying the purposes set forth in paragraph (a), to:

(1) Acquire land on which to construct additional facilities for the justice courts or a regional justice center that includes the justice courts;

(2) Construct or acquire additional facilities for the justice courts or a regional justice center that includes the justice courts;

(3) Renovate or remodel existing facilities for the justice courts or a regional justice center that includes the justice courts;

(4) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the justice courts or a regional justice center that includes the justice courts;

(5) Acquire advanced technology for use in the additional or renovated facilities;

(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 justice courts or a regional justice center that includes the justice courts; and

(7) Acquire equipment or additional staff to enhance the security of the facilities used by the justice courts, justices of the peace, staff of the justice courts and residents of this State who access the justice courts.

↪ Any money remaining in the account at the end of a fiscal year must be carried forward to the next fiscal year.

Sec. 3. ~~NRS 4.100 is hereby amended to read as follows:~~

~~4.100 1. On the first Mondays of January, April, July and October, the justices of the peace who receive fees pursuant to the provisions of NRS 4.060, 4.063 and 4.065 and section 1 of this act shall make out and file with the boards of county commissioners of their several counties a full and correct statement under oath of all fees or compensation, of whatever nature or kind, received in their several official capacities during the preceding 3~~

~~months. In the statement they shall set forth the cause in which, and the services for which, such fees or compensation were received.~~

~~2. This section does not require personal attendance in filing statements, which may be transmitted by mail or otherwise directed to the clerk of the board of county commissioners.~~ **(Deleted by amendment.)**

Sec. 4. ~~NRS 4.140 is hereby amended to read as follows:~~

~~4.140 All fees prescribed in NRS 4.060, 4.063 and 4.065 and section 1 of this act must be paid in advance, if demanded. If a justice of the peace has not received any or all of his or her fees, which are due the justice of the peace for services rendered by the justice of the peace in any suit or proceedings, the justice of the peace may have execution therefor in his or her own name against the party 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.~~ **(Deleted by amendment.)**

Sec. 5. This act becomes effective on July 1, 2011.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 181.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 155.

SUMMARY—Provides for ~~the~~ evaluation by the Advisory Commission on the Administration of Justice of the policies and practices relating to the involuntary civil commitment of sexually dangerous persons. (BDR ~~39-95~~) **14-95**)

AN ACT relating to sexually dangerous persons; ~~providing for the~~ revising the duties of the Advisory Commission on the Administration of Justice to include evaluation of the policies and practices relating to the involuntary civil commitment of sexually dangerous persons; ~~requiring the Division of Mental Health and Developmental Services of the Department of Health and Human Services to adopt certain regulations;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Federal law authorizes a federal district court to order the civil commitment of a person found to be mentally ill and a danger sexually to the public. (18 U.S.C. § 4248) Additionally, the United States Supreme Court recently upheld a federal law authorizing the civil commitment of sexually dangerous persons. (*United States v. Comstock*, 130 S. Ct. 1949 (2010))

~~Section 15 of this bill authorizes a district attorney to file a petition seeking the civil commitment of a sexually dangerous person, which means a person who has been convicted of a sexually dangerous offense, who suffers from a mental disorder and who is dangerous to the public because the person is likely to commit a sexually dangerous offense. Section 17 of this bill requires~~

~~a court, within 72 hours after a district attorney files such a petition, to hold a hearing to determine whether probable cause exists to believe that the person is a sexually dangerous person. If the court determines that such probable cause exists, the court is required to schedule a hearing before a jury to determine whether the person is a sexually dangerous person. Section 19 of this bill requires the district attorney to prove by clear and convincing evidence that the person is a sexually dangerous person. If the jury unanimously finds that the person is a sexually dangerous person and that the person requires commitment, the court must enter an order committing the person to the custody of a program for the treatment of sexually dangerous persons established by the Division of Mental Health and Developmental Services of the Department of Health and Human Services. If the jury finds that the person is a sexually dangerous person but does not unanimously find that the person should be civilly committed, the court must order the person to be placed in an alternative course of treatment to be administered by the Division.~~

~~Section 22 of this bill requires the Division to select a qualified professional to evaluate the mental health of a person committed to its custody pursuant to this bill at least once each year. Section 23 of this bill provides that if through the evaluation or at any other time during the period of commitment the Administrator of the Division determines that the person no longer suffers from a mental disorder, the person is no longer dangerous to the public and the person is suitable for conditional release to an alternative course of treatment, the court must hold a hearing to determine whether the person should be released. Section 24 of this bill authorizes a person committed to the custody of the Division pursuant to this bill to file a request for release not more than once every 6 months.~~

~~Section 31 of this bill requires the Division to adopt regulations: (1) establishing a program for the secure commitment of persons found to be sexually dangerous persons; (2) establishing alternative courses of treatment; and (3) determining the professional qualifications required to evaluate a person alleged to be a sexually dangerous person.~~

Existing law establishes the Advisory Commission on the Administration of Justice and directs the Commission to study the elements of this State's criminal justice system, among other things. (NRS 176.0123, 176.0125) This bill requires the Commission to evaluate the policies and practices relating to the involuntary civil commitment of sexually dangerous persons

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

- Section 1. (Deleted by amendment.)
- Sec. 2. (Deleted by amendment.)
- Sec. 3. (Deleted by amendment.)
- Sec. 4. (Deleted by amendment.)

- Sec. 5. (Deleted by amendment.)
- Sec. 6. (Deleted by amendment.)
- Sec. 7. (Deleted by amendment.)
- Sec. 8. (Deleted by amendment.)
- Sec. 9. (Deleted by amendment.)
- Sec. 10. (Deleted by amendment.)
- Sec. 11. (Deleted by amendment.)
- Sec. 12. (Deleted by amendment.)
- Sec. 13. (Deleted by amendment.)
- Sec. 14. (Deleted by amendment.)
- Sec. 15. (Deleted by amendment.)
- Sec. 16. (Deleted by amendment.)
- Sec. 17. (Deleted by amendment.)
- Sec. 18. (Deleted by amendment.)
- Sec. 19. (Deleted by amendment.)
- Sec. 20. (Deleted by amendment.)
- Sec. 21. (Deleted by amendment.)
- Sec. 22. (Deleted by amendment.)
- Sec. 23. (Deleted by amendment.)
- Sec. 24. (Deleted by amendment.)
- Sec. 25. (Deleted by amendment.)
- Sec. 26. (Deleted by amendment.)
- Sec. 27. (Deleted by amendment.)
- Sec. 28. (Deleted by amendment.)
- Sec. 29. (Deleted by amendment.)
- Sec. 30. (Deleted by amendment.)
- Sec. 31. (Deleted by amendment.)
- Sec. 32. (Deleted by amendment.)
- Sec. 33. (Deleted by amendment.)
- Sec. 34. (Deleted by amendment.)
- Sec. 35. (Deleted by amendment.)
- Sec. 36. (Deleted by amendment.)
- Sec. 37. (Deleted by amendment.)
- Sec. 38. (Deleted by amendment.)
- Sec. 39. (Deleted by amendment.)
- Sec. 40. (Deleted by amendment.)
- Sec. 41. (Deleted by amendment.)
- Sec. 42. (Deleted by amendment.)
- Sec. 43. (Deleted by amendment.)
- Sec. 44. (Deleted by amendment.)
- Sec. 45. (Deleted by amendment.)
- Sec. 46. (Deleted by amendment.)
- Sec. 47. (Deleted by amendment.)
- Sec. 48. (Deleted by amendment.)
- Sec. 49. (Deleted by amendment.)

Sec. 50. **(Deleted by amendment.)**

Sec. 51. **(Deleted by amendment.)**

Sec. 52. **(Deleted by amendment.)**

Sec. 53. **(Deleted by amendment.)**

Sec. 54. **(Deleted by amendment.)**

Sec. 55. **NRS 176.0125 is hereby amended to read as follows:**

176.0125 The Commission shall:

1. Identify and study the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors.

2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, including, but not limited to, the use of plea bargaining, probation, programs of intensive supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances, structured or tiered sentencing, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

3. Recommend changes in the structure of sentencing in this State which, to the extent practicable and with consideration for their fiscal impact, incorporate general objectives and goals for sentencing, including, but not limited to, the following:

(a) Offenders must receive sentences that increase in direct proportion to the severity of their crimes and their histories of criminality.

(b) Offenders who have extensive histories of criminality or who have exhibited a propensity to commit crimes of a predatory or violent nature must receive sentences which reflect the need to ensure the safety and protection of the public and which allow for the imprisonment for life of such offenders.

(c) Offenders who have committed offenses that do not include acts of violence and who have limited histories of criminality must receive sentences which reflect the need to conserve scarce economic resources through the use of various alternatives to traditional forms of incarceration.

(d) Offenders with similar histories of criminality who are convicted of similar crimes must receive sentences that are generally similar.

(e) Offenders sentenced to imprisonment must receive sentences which do not confuse or mislead the public as to the actual time those offenders must serve while incarcerated or before being released from confinement or supervision.

(f) Offenders must not receive disparate sentences based upon factors such as race, gender or economic status.

(g) Offenders must receive sentences which are based upon the specific circumstances and facts of their offenses, including the nature of the offense and any aggravating factors, the savagery of the offense, as evidenced by the extent of any injury to the victim, and the degree of criminal sophistication

demonstrated by the offender's acts before, during and after commission of the offense.

4. Evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners with consideration as to whether it is feasible and advisable to establish an oversight or advisory board to perform various functions and make recommendations concerning:

- (a) Policies relating to parole;
- (b) Regulatory procedures and policies of the State Board of Parole Commissioners;
- (c) Policies for the operation of the Department of Corrections;
- (d) Budgetary issues; and
- (e) Other related matters.

5. Evaluate the effectiveness of specialty court programs in this State with consideration as to whether such programs have the effect of limiting or precluding reentry of offenders and parolees into the community.

6. Evaluate the policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation of the Department of Public Safety, including, without limitation, the resources relied on in preparing such investigations and reports and the extent to which judges in this State rely on and follow the recommendations contained in such presentence investigations and reports.

7. Evaluate, review and comment upon issues relating to juvenile justice in this State, including, but not limited to:

- (a) The need for the establishment and implementation of evidence-based programs and a continuum of sanctions for children who are subject to the jurisdiction of the juvenile court; and
- (b) The impact on the criminal justice system of the policies and programs of the juvenile justice system.

8. Compile and develop statistical information concerning sentencing in this State.

9. Identify and study issues relating to the application of chapter 241 of NRS to meetings held by the:

- (a) State Board of Pardons Commissioners to consider an application for clemency; and
- (b) State Board of Parole Commissioners to consider an offender for parole.

10. Identify and study issues relating to the operation of the Department of Corrections, including, without limitation, the system for allowing credits against the sentences of offenders, the accounting of such credits and any other policies and procedures of the Department which pertain to the operation of the Department.

11. **Evaluate the policies and practices relating to the involuntary civil commitment of sexually dangerous persons.**

12. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes pertaining to the

administration of justice in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 212.

Bill read second time

The following amendment was proposed by the Committee on Transportation:

Amendment No. 239.

AN ACT relating to transportation; revising provisions governing the authority of the Department of Transportation to enter into contracts with design-build teams; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Department of Transportation is authorized, under certain circumstances, to enter into one or more contracts known as design-build contracts with teams that consist of at least one general contractor and an architect or professional engineer for the design and construction of projects estimated to cost more than \$20 million. Once each fiscal year, the Department is authorized to enter into a design-build contract for a project estimated to cost between \$5 million and \$20 million. (NRS 408.388) This bill: (1) ~~removes the limitation on the number of smaller projects for which the Department is authorized to enter into design-build contracts in a fiscal year, and (2)~~ decreases to ~~the~~ ~~\$4~~ **\$10** million the threshold at which the Department is authorized **generally** to enter into a design-build contract for a project ~~it~~ ; and (2) **revises the authorization for the Department to enter into smaller design-build contracts from once each fiscal year to twice each fiscal year, and also revises the upper limit on the estimated cost of such a contract to \$10 million.**

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

Section 1. NRS 408.388 is hereby amended to read as follows:

408.388 1. Except as otherwise provided in NRS 408.5471 to 408.549, inclusive, the Department may contract with a design-build team for the design and construction of a project if the Department determines that:

(a) Except as otherwise provided in subsection 2, the
~~1. The~~ estimated cost of the project exceeds ~~the~~ ~~\$20,000,000;~~
~~\$1,000,000;~~ **\$10,000,000;** and

(b) ~~2.~~ Contracting with a design-build team will enable the Department to:

(1) ~~the~~ Design and construct the project at a cost that is significantly lower than the cost that the Department would incur to design and construct the project using a different method;

(2) ~~the~~ Design and construct the project in a shorter time than would be required to complete the project using a different method, if exigent circumstances require that the project be designed and constructed within a short time; or

(3) ~~the~~ Ensure that the design and construction of the project is properly coordinated, if the project is unique, highly technical and complex in nature.

2. Notwithstanding the provisions of subsection 1, the Department may, ~~once~~ twice in each fiscal year, contract with a design-build team for the design and construction of a project the estimated cost of which is at least \$5,000,000 but less than ~~[\$20,000,000]~~ **\$10,000,000** if the Department makes the determinations otherwise required pursuant to paragraph (b) of subsection 1.

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

Assemblywoman Dondero Loop moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 215.

Bill read second time.

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

Amendment No. 217.

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

Legislative Counsel's Digest:

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

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

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

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

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

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

- (a) The manner of giving notice in each type of proceeding; and
- (b) The persons entitled to notice in each type of proceeding.

2. The Commission shall not dispense with a hearing:

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

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

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

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

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

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

1. A general rate application;
2. An application to recover the ~~increased~~ cost of purchased fuel, purchased power, or natural gas purchased for resale; ~~and~~
3. An annual deferred energy accounting adjustment application ~~[-]~~; **and**
4. **An annual rate adjustment application.**

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

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

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

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

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

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

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

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

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

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

(b) A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on changes in the public utility's recorded costs of natural gas purchased for resale.

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

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

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

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

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

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

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

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

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

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

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

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an annual deferred energy accounting adjustment application, the Consumer's Advocate shall be deemed a party of record.

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

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

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

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

(c) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of \$2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had not filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2008, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.

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

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

4. In addition to submitting the statement required pursuant to subsection 3, a public utility may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. The Commission shall consider

expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances consist of specific and identifiable events or programs rather than general trends, patterns or developments, have an objectively high probability of occurring to the degree, in the amount and at the time expected, are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts, projections or budgets. If the Commission determines that the public utility has met its burden of proof:

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

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

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

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, a quarterly rate adjustment pursuant to subsection 8 or ~~19, 1~~ **10**, any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions.

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

(a) An electric utility which is required to adjust its rates on a quarterly basis pursuant to subsection ~~19, 1~~ **10**; or

(b) ~~A public utility which purchases natural gas for resale and which adjusts its~~ A ~~Except as otherwise provided in subsection 5 of NRS 704.185, a~~

rates on a quarterly basis ~~between annual rate adjustment applications~~ pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. ~~A request by a public utility for approval to adjust its rates on a quarterly basis may include a request for approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustments to its rates on a quarterly basis.~~ which adjusts its rates on a quarterly basis may include a request for approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall not approve or deny such a request not later than 120 days after the application is filed with the Commission. The Commission may approve the request if the Commission finds that the quarterly adjustment is in the best interest of the public. If the Commission approves a request for to make quarterly adjustments to the deferred energy accounting adjustments for adjustment of a public utility pursuant to this subsection unless the balance of the public utility's deferred account is an amount greater than 5 percent of the public utility's annual recorded costs of natural gas which are used to calculate quarterly rate adjustments between annual rate adjustment applications. Any, any quarterly adjustment to the deferred energy accounting adjustment that is approved for a public utility pursuant to this subsection must not exceed 2.5 cents per therm of natural gas. The Commission shall not approve a deferred energy accounting adjustment if the balance of the public utility's deferred account varies by less than 5 percent from the public utility's annual recorded costs of natural gas which are used to calculate quarterly rate adjustments.

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

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

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

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

(2) Must include the following:

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

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

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

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

(V) Any other information required by the Commission.

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

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

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

~~9.1~~ **10.** An electric utility shall adjust its rates on a quarterly basis based on changes in the ~~public~~ **electric** utility's recorded costs of purchased fuel or purchased power. ~~In the following manner:~~ ***In addition to adjusting its rates on a quarterly basis, an electric utility may request approval from the Commission to make quarterly adjustments to its deferred energy accounting ~~adjustments to its rates on a quarterly basis.~~ adjustment. The Commission shall ~~not~~ approve or deny such a request not later than 120 days after the application is filed with the Commission. The Commission may approve the request if the Commission finds that the quarterly adjustment is in the best interest of the public. If the Commission approves a request ~~for~~ to make quarterly adjustments to the deferred energy***

~~accounting adjustments for~~ adjustment of an electric utility pursuant to this subsection ~~unless~~, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 0.25 cents per kilowatt-hour of electricity. The Commission shall not approve a deferred energy accounting adjustment if the balance of the electric utility's deferred account ~~is an amount greater~~ varies by less than 5 percent ~~of~~ from the electric utility's annual recorded costs for purchased fuel or purchased power which are used to calculate quarterly rate adjustments. Any quarterly deferred energy accounting adjustment that is approved for an electric utility pursuant to this subsection must not exceed 0.25 cents per kilowatt-hour of electricity.

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

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

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

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

(2) Must include the following:

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

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

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

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

(V) Any other information required by the Commission.

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

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

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

~~10.1~~ **12.** If an electric utility files an annual deferred energy accounting adjustment application pursuant to subsection ~~9.1~~ **11** and NRS 704.187 while a general rate application is pending, the electric utility shall:

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

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

~~11.1~~ **13.** A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

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

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

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

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

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

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

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

17. As used in this section:

(a) ~~“Deferred energy accounting adjustment” means an adjustment to a rate by~~

~~(1) A public utility which purchases natural gas for resale based on deferred accounting pursuant to NRS 704.185; or~~

~~(2) An electric utility which purchases fuel or power based on deferred accounting pursuant to NRS 704.187.]~~ the rate of a public utility which purchases natural gas for resale or an electric utility that is calculated by dividing the balance of a deferred account during a specified period by the total therms or kilowatt-hours which have been sold in the geographical area to which the rate applies during the specified period.

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

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

~~{(c)}~~ (d) “Electric utility that primarily serves less densely populated counties” means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this

State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.

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

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

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

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

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

4. ~~Except as otherwise provided in subsection 5, a~~ **A public utility which purchases natural gas for resale and which has received approval from the Commission to make quarterly adjustments to a deferred energy accounting** ~~adjustments~~ **adjustment pursuant to subsection 8 of NRS 704.110 is not eligible to ~~submit any other application for a deferred energy accounting adjustment or~~ **request** ~~for~~ **an adjustment to its deferred energy accounting adjustment in its annual rate adjustment application.****

~~5. The Commission may authorize a public utility which purchases natural gas for resale and which has received approval from the Commission~~

~~to make quarterly deferred energy accounting adjustments pursuant to subsection 9 of NRS 704.110 to submit an application for any additional deferred energy accounting adjustment upon a showing of good cause. Any additional deferred energy accounting adjustment approved pursuant to this subsection is subject to the notice and hearing requirements for quarterly rate adjustments pursuant to subsection 9 of NRS 704.110.]~~

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

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

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

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

4. ***An electric utility that purchases fuel or power and has received approval from the Commission to make quarterly adjustments to its deferred energy accounting ~~adjustments~~ adjustment pursuant to subsection 10 of NRS 704.110 is not eligible to ~~submit any other application for a~~ request an adjustment to its deferred energy accounting adjustment ~~+~~ in its annual deferred energy accounting adjustment application.***

5. As used in this section:

(a) “Annual deferred energy accounting adjustment application” means an application filed by an electric utility pursuant to this section and subsection ~~{9}~~ 11 of NRS 704.110.

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

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

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

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

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

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

Sec. 8. This act becomes effective upon passage and approval.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 221.

Bill read second time.

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

Amendment No. 146.

AN ACT relating to the practice of pharmacy; establishing provisions governing the dispensing of a ~~[therapeutically equivalent]~~ **therapeutic alternative** drug ; ~~in place of a drug that is prescribed by a practitioner;~~ providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the substitution by a pharmacist of a generic drug for a prescribed drug if the generic drug is biologically equivalent to and has the same active ingredients as the prescribed drug. (NRS 639.2583) **Section 1** of this bill authorizes a pharmacist to dispense a ~~[therapeutically equivalent]~~ **therapeutic alternative** drug in place of a prescribed drug under certain circumstances if the pharmacist has obtained the consent of the prescribing practitioner ~~and the person presenting the prescription.~~ The substitution of a generic drug differs from a therapeutic interchange authorized by **section 1** in that the ~~[therapeutically equivalent]~~ **therapeutic alternative** drug that is being dispensed is not ~~[biologically]~~ **pharmaceutically** equivalent to the prescribed drug. **Sections 2-10** of this bill amend existing laws that reference the substitution of generic drugs to also reference therapeutic interchanges.

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A pharmacist who fills or refills a prescription shall not dispense a ~~[therapeutically equivalent]~~ therapeutic alternative drug in place of a drug

that is prescribed by a practitioner unless the pharmacist has obtained consent for such therapeutic interchange from the prescribing practitioner ~~and the person who presents the prescription.~~ The pharmacist may obtain consent through any oral, written or electronic means deemed appropriate by the pharmacist.

~~2. Before a pharmacist:~~

~~(a) Discusses a therapeutically equivalent drug with or suggests a therapeutic interchange to a person who presents a prescription, the pharmacist shall discuss the proposed therapeutic interchange with and obtain consent from the prescribing practitioner.~~

~~(b) Dispenses a therapeutically equivalent drug in place of a drug that is prescribed by a practitioner, the pharmacist shall:~~

~~(1) Advise the person who presents the prescription that the pharmacist intends to dispense a therapeutically equivalent drug in place of the drug that is prescribed by the practitioner; and~~

~~(2) Advise the person that he or she may refuse to accept the therapeutically equivalent drug that the pharmacist intends to dispense.~~

~~3. A pharmacist who dispenses a therapeutically equivalent drug in place of a drug that is prescribed by a practitioner shall maintain in the health care record of the patient for whom the drug was dispensed a record of the consent obtained pursuant to this section.~~

~~4. If a therapeutically equivalent drug is dispensed in place of a drug that is prescribed by a practitioner pursuant to this section, the pharmacist or practitioner:~~

~~(a) Shall note the name of the manufacturer, packer or distributor of the drug actually dispensed on the prescription; and~~

~~(b) Unless prohibited by the practitioner, may indicate the therapeutic interchange by writing or typing on the label the words "in place of" following the name of the therapeutically equivalent drug and preceding the name of the prescribed drug.~~

~~5. The provisions of this section also apply to a prescription issued to a person by a practitioner from outside this State.~~

~~6. As used in this section:~~

~~(a) "Food and Drug Administration" means the United States Food and Drug Administration of the United States Department of Health and Human Services.~~

~~(b) "Therapeutic alternative drug" means a drug that is:~~

~~(1) Approved by the Food and Drug Administration pursuant to the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301 et seq.;~~

~~(2) In the same therapeutic class and approved for the same indication as another drug; and~~

~~(3) Not a therapeutically equivalent drug.~~

~~(c) "Therapeutic interchange" means the dispensing of a therapeutically equivalent therapeutic alternative drug in place of a drug that is prescribed by a practitioner.~~

~~(b)~~

~~(d) “Therapeutically equivalent drug” means a drug that is expected to produce the same clinical effect and safety profile as a drug that is prescribed by a practitioner but is not biologically equivalent to that prescribed drug.”~~

(1) Approved by the Food and Drug Administration pursuant to the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301 et seq.;

(2) Pharmaceutically equivalent, based on the scientific and medical evaluations of the Food and Drug Administration, to a brand name drug, including, without limitation, having the same active ingredient, dosage form, strength and route of administration, and is bioequivalent to the brand name drug; and

(3) Assigned a therapeutic equivalence code starting with the letter “A” in accordance with the most recently published edition of the “Approved Drug Products with Therapeutic Equivalence Evaluations” published by the Food and Drug Administration and any cumulative supplements thereto.

Sec. 2. NRS 639.259 is hereby amended to read as follows:

639.259 No employer of a pharmacist may require the pharmacist to dispense any specific generic drug in substitution for another drug if the:

1. Substitution is not permitted by the prescription as signed by a practitioner;

2. Substitution would be against the professional judgment of the pharmacist; or

3. Substitution would violate any provision of NRS 639.2583 to 639.2597, inclusive ~~1~~, **and section 1 of this act.**

Sec. 3. NRS 689A.04045 is hereby amended to read as follows:

689A.04045 1. Except as otherwise provided in this section, a policy of health insurance which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the insurer for a medical condition of an insured and the insured’s provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from

establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the policy that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~[-]~~, **and section 1 of this act**; or

(c) Require any coverage for a drug after the term of the policy.

3. Any provision of a policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 4. NRS 689B.0368 is hereby amended to read as follows:

689B.0368 1. Except as otherwise provided in this section, a policy of group health insurance which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the insurer for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the policy that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~[-]~~, **and section 1 of this act**; or

(c) Require any coverage for a drug after the term of the policy.

3. Any provision of a policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 5. NRS 689C.168 is hereby amended to read as follows:

689C.168 1. Except as otherwise provided in this section, a health benefit plan which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the carrier for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the

drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The carrier from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the plan that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~[1]~~, **and section 1 of this act**; or

(c) Require any coverage for a drug after the term of the plan.

3. Any provision of a health benefit plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 6. NRS 695A.184 is hereby amended to read as follows:

695A.184 1. Except as otherwise provided in this section, a benefit contract which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the society for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The society from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the benefit contract that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~[1]~~, **and section 1 of this act**; or

(c) Require any coverage for a drug after the term of the benefit contract.

3. Any provision of a benefit contract subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 7. NRS 695B.1905 is hereby amended to read as follows:

695B.1905 1. Except as otherwise provided in this section, a contract for hospital or medical services which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the insurer for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the contract that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~[-]~~, **and section 1 of this act**; or

(c) Require any coverage for a drug after the term of the contract.

3. Any provision of a contract for hospital or medical services subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 8. NRS 695C.1734 is hereby amended to read as follows:

695C.1734 1. Except as otherwise provided in this section, evidence of coverage which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the health maintenance organization or insurer for a medical condition of an enrollee and the enrollee's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the enrollee; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the enrollee.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The health maintenance organization or insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the enrollee or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the evidence of coverage that is medically appropriate for the enrollee; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~to~~, **and section 1 of this act**; or

(c) Require any coverage for a drug after the term of the evidence of coverage.

3. Any provision of an evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 9. NRS 695F.156 is hereby amended to read as follows:

695F.156 1. Except as otherwise provided in this section, evidence of coverage which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the prepaid limited health service organization for a medical condition of an enrollee and the enrollee's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the enrollee; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the enrollee.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The organization from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the enrollee or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the evidence of coverage that is medically appropriate for the enrollee; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~to~~, **and section 1 of this act**; or

(c) Require any coverage for a drug after the term of the evidence of coverage.

3. Any provision of an evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 10. NRS 695G.166 is hereby amended to read as follows:

695G.166 1. Except as otherwise provided in this section, a health care plan which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the managed care organization for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The organization from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the plan that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~to~~, **and section 1 of this act**; or

(c) Require any coverage for a drug after the term of the plan.

3. Any provision of a health care plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 227.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 422.

SUMMARY—Requires boards of trustees of school districts to grant the use of certain athletic fields to certain nonprofit organizations. ~~which provide programs for youth sports.~~ (BDR 34-36)

AN ACT relating to school property; requiring boards of trustees of school districts to grant the use of certain athletic fields to nonprofit organizations which serve adults and children with disabilities or which provide

programs for youth sports; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the board of trustees of a school district is authorized to grant the use of school buildings and grounds to the general public for certain purposes. (NRS 393.071-393.0719)

Section 1 of this bill requires the board of trustees of a school district to upon request by a nonprofit organization and subject to availability, grant the use of any athletic field that does not contain lights at an elementary, middle or junior high school within the school district ~~to a~~ if the nonprofit organization ~~(which)~~ : (1) serves adults and children with disabilities; or (2) provides programs for youth sports . ~~upon request by the organization and subject to the availability of the field.~~ The provisions of **section 1** do not apply if a school district has entered into an agreement with a local government to provide the use of the athletic fields or playgrounds of the school district to a community organization which provides programs for youth sports.

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

Section 1. Chapter 393 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsections 3 and 4 and subject to the limitations, requirements and restrictions set forth in this section and in NRS 393.071 to 393.0719, inclusive, the board of trustees of a school district shall, upon request, grant the use of any athletic field at each elementary, middle or junior high school within the school district to a nonprofit organization which serves adults and children with disabilities or which provides programs for youth sports, including, without limitation, baseball, football, soccer or softball. The organization may use the field at any time that:

- (a) Is not during regular school hours; and**
- (b) Use of the field is not required for school-related activities.**

2. ~~At~~ If a nonprofit organization which serves adults and children with disabilities or which provides programs for youth sports ~~and~~ is granted use of an athletic field pursuant to subsection 1 , the nonprofit organization shall comply with any insurance coverage and indemnification provisions required by the board of trustees of the school district.

3. If the board of trustees of a school district has entered into an agreement with one or more local governments to provide the use of the athletic fields or playgrounds of the school district to a community organization which provides programs for youth sports, the board of trustees is not required to comply with the provisions of subsection 1.

4. The provisions of this section do not apply to an athletic field that contains lights.

Sec. 2. NRS 393.071 is hereby amended to read as follows:

393.071 ~~[The]~~ **Except as otherwise provided in section 1 of this act, the** board of trustees of any school district may grant the use of school buildings or grounds for public, literary, scientific, recreational or educational meetings, or for the discussion of matters of general or public interest upon such terms and conditions as the board deems proper, subject to the limitations, requirements and restrictions set forth in NRS 393.071 to 393.0719, inclusive ~~[,]~~, **and section 1 of this act.**

Sec. 3. This act becomes effective on July 1, 2011.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 267.

Bill read second time.

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

Amendment No. 287.

AN ACT relating to industrial insurance; revising the persons who may represent an injured worker in certain hearings or other meetings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person may represent an injured worker before a hearing officer or in meetings with an insurer regarding a claim only if the person is: (1) a full-time employee of the injured worker's labor organization; (2) an attorney; (3) a full-time employee of an attorney who is supervised by that attorney; or (4) appearing without compensation. ~~[Further, a person may represent an injured worker before an appeals officer only if the person is an attorney.]~~ This bill allows ~~[an]~~ **any** employee of the injured worker's labor organization to appear on the injured worker's behalf in ~~[either situation.]~~ **such situations.**

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

Section 1. NRS 616C.325 is hereby amended to read as follows:

616C.325 1. It is unlawful for any person to represent an employee before a hearings officer, or in any negotiations, settlements, hearings or other meetings with an insurer concerning the employee's claim or possible claim, unless the person is:

- (a) Employed ~~[full-time]~~ by the employee's labor organization;
- (b) Admitted to practice law in this State;
- (c) Employed full-time by and under the supervision of an attorney admitted to practice law in this State; or

(d) Appearing without compensation on behalf of the employee.

↪ It is unlawful for any person who is not admitted to practice law in this State ~~for employed by the employee's labor organization~~ to represent the employee before an appeals officer.

2. It is unlawful for any person to represent an employer at hearings of contested cases unless that person is:

(a) Employed full-time by the employer or a trade association to which the employer belongs that is not formed solely to provide representation at hearings of contested cases;

(b) An employer's representative licensed pursuant to subsection 3 who is not licensed as a third-party administrator;

(c) Admitted to practice law in this State; or

(d) A licensed third-party administrator.

3. The Director of the Department of Administration shall adopt regulations which include the:

(a) Requirements for licensure of employers' representatives, including:

(1) The registration of each representative; and

(2) The filing of a copy of each written agreement for the compensation of a representative;

(b) Procedure for such licensure; and

(c) Causes for revocation of such a license, including any applicable action listed in NRS 616D.120 or a violation of this section.

4. Any person who is employed by or contracts with an employer to represent the employer at hearings regarding contested claims is an agent of the employer. If the employer's representative violates any provision of this chapter or chapter 616A, 616B, 616D or 617 of NRS, the employer is liable for any penalty assessed because of that violation.

5. An employer shall not make the compensation of any person representing the employer contingent in any manner upon the outcome of any contested claim.

6. The Director of the Department of Administration shall collect in advance and deposit with the State Treasurer for credit to the State General Fund the following fees for licensure as an employer's representative:

(a) Application and license.....\$78

(b) Triennial renewal of each license.....78

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 269.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 205.

AN ACT relating to criminal procedure; ~~prohibiting the use of a grand jury in certain circumstances;~~ **authorizing a defendant to submit a**

statement concerning the results of a preliminary hearing to a grand jury; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill ~~expands the existing limitations on the use of a grand jury so that a district attorney is also prohibited from seeking the indictment of a person if the evidence presented by the district attorney during the preliminary examination was insufficient to hold the person for trial, unless substantial evidence is discovered that was not available at the time of the preliminary hearing.~~ authorizes a defendant to submit a statement to a grand jury providing whether a preliminary hearing was held and, if so, that the evidence presented at the preliminary hearing was considered insufficient to warrant holding the defendant for trial.

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

Section 1. ~~NRS 172.107 is hereby amended to read as follows:~~

~~172.107 A district attorney shall not use a grand jury to [discover]:~~

- ~~1. Seek the indictment of a person if the evidence presented by the district attorney during a preliminary examination is insufficient to warrant holding the person for trial, unless substantial evidence that was not available at the time of the preliminary examination is discovered; or~~
- ~~2. Discover tangible, documentary or testimonial evidence to assist in the prosecution of a defendant who has already been charged with the public offense by indictment or information.~~ **(Deleted by amendment.)**

Sec. 2. NRS 172.145 is hereby amended to read as follows:

172.145 1. The grand jury is not bound to hear evidence for the defendant ~~it~~ , except that the defendant is entitled to submit a statement which the grand jury must receive providing whether a preliminary hearing was held concerning the matter and, if so, that the evidence presented at the preliminary hearing was considered insufficient to warrant holding the defendant for trial. It is their duty, however, to weigh all evidence submitted to them, and when they have reason to believe that other evidence within their reach will explain away the charge, they shall order that evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.

2. If the district attorney is aware of any evidence which will explain away the charge, the district attorney shall submit it to the grand jury.

3. The grand jury may invite any person, without process, to appear before the grand jury to testify.

Assemblyman Ohrenschaal moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 292.

Bill read second time.

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

Amendment No. 283.

SUMMARY—Revises provisions governing ~~real estate appraisal~~ **(BDR 54-803)**; **judicial proceedings for eminent domain. (BDR 3-803)**

AN ACT relating to ~~real estate appraisal; limiting certain exemptions from provisions governing real estate appraisal;~~ **eminent domain; prohibiting an appraiser from using certain appraisal reports to evaluate real property in a judicial proceeding for eminent domain;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law exempts from the provisions governing real estate appraisal any person who provides an assessment of the value of real property in connection with an eminent domain proceeding. (NRS 645C.150) Accordingly, such a person currently is not subject to regulation by the Real Estate Division of the Department of Business and Industry or the Commission of Appraisers of Real Estate for any acts relating to any real property appraisal conducted in connection with a judicial proceeding for eminent domain. This bill has the effect of making licensed appraisers, certified appraisers and appraisers who hold a certificate or license issued by another jurisdiction and who have received a permit to conduct an appraisal of real property in this State subject to the provisions governing real estate appraisal even when providing an assessment of the value of real property in connection with~~ **This bill prohibits an appraiser from using a Restricted Use Appraisal Report to determine, establish or assess the nature, value, quality or use of real property in** a judicial proceeding for eminent domain.

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

Section 1. ~~NRS 645C.150 is hereby amended to read as follows:~~

~~645C.150 The provisions of this chapter do not apply to:~~

~~1. A federal or state employee, or an employee of a local government, who prepares or communicates an appraisal as part of his or her official duties, unless a license or certificate is required as a condition of that employment.~~

~~2. A person appointed to evaluate real estate pursuant to chapter 152 of NRS or NRS 269.125, except as required by the appointing judge.~~

~~3. A board of appraisers acting pursuant to NRS 269.125.~~

~~4. A person licensed pursuant to chapter 645 or 684A of NRS, or certified pursuant to chapter 645D of NRS, while performing an act within the scope of his or her license or certificate.~~

~~5. A person who makes an evaluation of real estate as an incidental part of his or her employment for which special compensation is not provided, if that evaluation is only provided to the person's employer for internal use within the place of his or her employment.~~

~~6. A person, other than a licensed appraiser, certified appraiser or person who has received a permit to conduct an appraisal pursuant to NRS 645C.363, who makes an assessment of the value of property in connection with a judicial proceeding for eminent domain brought pursuant to chapter 37 of NRS.~~ (Deleted by amendment.)

Sec. 2. Chapter 37 of NRS is hereby amended by adding thereto a new section to read as follows:

An appraiser shall not use a Restricted Use Appraisal Report which is prepared in accordance with the Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Standards Board of The Appraisal Foundation to determine, establish or assess the nature, value, quality or use of real property in a judicial proceeding for eminent domain brought pursuant to this chapter.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 299.

Bill read second time.

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

Amendment No. 221.

AN ACT relating to insurance; creating the Low-Cost Automobile Insurance Pilot Program; providing that a low-cost automobile insurance policy issued under the Program satisfies the coverage requirements for a motor vehicle liability policy; establishing the requirements for participation in the Program; imposing an assessment on motor vehicle liability policies to fund the operation of and publicity for the Program; requiring the Commissioner of Insurance to report to the Legislature on the effectiveness of the Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, an owner of a motor vehicle in this State must provide liability insurance for the motor vehicle. Such liability insurance must include, at a minimum, coverage for bodily injury or death in the amount of \$15,000 per person and \$30,000 for two or more people per accident and coverage for property damage in the amount of \$10,000 per accident. (NRS 485.185)

Section 6 of this bill creates the Low-Cost Automobile Insurance Pilot Program. **Section 8** of this bill provides that a low-cost automobile insurance policy issued through the Program must include coverage for bodily injury or death in the amount of \$10,000 per person and \$20,000 for two or more people per accident and coverage for property damage in the amount of \$3,000 per accident. **Section 9** of this bill establishes the factors that the Commissioner of Insurance must consider in setting the rate for a low-cost automobile insurance policy. **Section 9** also provides the methods that an

insured may use to pay the rate for a low-cost automobile insurance policy and prohibits the financing of the rate with a third party.

Section 10 of this bill establishes the requirements that a person must meet to purchase a low-cost automobile insurance policy. **Section 11** of this bill requires that a low-cost automobile insurance policy be purchased through a producer of insurance. **Section 12** of this bill prohibits a producer of insurance , servicing carrier and the Administrator of the Program from charging any additional fee or requiring the purchase of any additional product or service in connection with the sale of a low-cost automobile insurance policy. **Section 13** of this bill establishes the conditions under which a low-cost automobile insurance policy may be cancelled or not renewed.

Section 14 of this bill prohibits a person who purchases a low-cost automobile insurance policy through the Program from purchasing additional liability coverage or from purchasing liability coverage other than a low-cost automobile insurance policy for any additional vehicles in his or her household. **Section 14** allows a person to purchase up to two low-cost automobile insurance policies for his or her household and to purchase other types of coverage, such as ~~uninsured or underinsured motorist~~ collision or comprehensive coverage.

Section 15 of this bill requires an insurer who sells motor vehicle liability policies in this State to participate in the Program. **Section 16** of this bill ~~creates~~ authorizes an assessment of ~~30~~ not more than 50 cents on each private passenger vehicle covered by a motor vehicle liability policy sold or renewed in this State.

Sections 17-21 of this bill provide that a low-cost automobile insurance policy satisfies the minimum requirements for liability coverage otherwise required by law.

Section 22 of this bill requires the Commissioner to report to the Legislature before the 2013 Legislative Session on the effectiveness of the Program.

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

Section 1. Chapter 690B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in sections 2 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections ~~3, 4 and 5~~ 2.5 to 5.5, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 2.5. *“Administrator” means the person designated by the Commissioner pursuant to section 6.3 of this act.*

Sec. 3. *“Low-cost automobile insurance policy” means a policy which is delivered, issued for delivery or renewed through the Program and which*

meets the requirements set forth in section 8 of this act and any regulations adopted pursuant to section 7 of this act.

Sec. 4. “Motor vehicle liability policy” has the meaning ascribed to it in NRS 485.055.

Sec. 5. “Program” means the Low-Cost Automobile Insurance Pilot Program created pursuant to section 6 of this act.

Sec. 5.5. “Servicing carrier” means a person designated by the Commissioner pursuant to section 6.7 of this act.

Sec. 6. There is hereby created the Low-Cost Automobile Insurance Pilot Program within the Division.

Sec. 6.3. 1. The Commissioner shall designate an Administrator to assist the Commissioner in administering the Program.

2. The Commissioner shall establish reasonable procedures for the use of competitive bidding to designate an Administrator.

3. The Administrator shall:

(a) Receive applications from producers of insurance for low-cost automobile insurance policies;

(b) Determine whether each application is eligible for a low-cost automobile insurance policy;

(c) Distribute each eligible application for a low-cost automobile insurance policy to a servicing carrier pursuant to the regulations adopted by the Commissioner; and

(d) Submit a report to the Commissioner on a quarterly basis and upon the request of the Commissioner concerning information received from servicing carriers and any other information requested by the Commissioner.

Sec. 6.7. 1. The Commissioner shall designate one or more servicing carriers to assist the Commissioner in carrying out the Program.

2. The Commissioner shall establish reasonable procedures for the use of competitive bidding to designate servicing carriers.

3. A servicing carrier shall:

(a) Receive eligible applications for low-cost automobile insurance policies from the Administrator;

(b) Issue a low-cost automobile insurance policy for each eligible application;

(c) Charge a premium at a rate established by the Commissioner pursuant to section 7 of this act for each low-cost automobile insurance policy issued and collect the premium as required by subsection 2 of section 9 of this act;

(d) Administer claims arising from a low-cost automobile insurance policy; and

(e) Submit a report to the Administrator on a quarterly basis and upon the request of the Commissioner concerning premiums, claims, expenses and any other information requested by the Commissioner.

Sec. 7. The Commissioner shall adopt such regulations as are necessary to carry out the provisions of sections 2 to 17, inclusive, of this act, including, without limitation, regulations that:

1. Equitably apportion the assignment of applications for low-cost automobile insurance policies among the ~~producers of insurance required to offer such policies through the Program~~ servicing carriers designated by the Commissioner pursuant to section 6.7 of this act.

2. Establish the rate for the purchase of a low-cost automobile insurance policy by an applicant, including a surcharge of not more than 25 percent of the rate if the applicant is an unmarried male who is at least 19 and not more than 24 years of age or if the applicant's household includes an unmarried male who is at least 19 and not more than 24 years of age and who will be a driver of the motor vehicle covered by the low-cost automobile insurance policy.

3. Establish the commission to be paid to a producer of insurance upon the purchase of a low-cost automobile insurance policy.

4. Establish educational requirements for a producer of insurance relating to the sale of low-cost automobile insurance policies.

5. Provide for advertising to raise public awareness of the availability of the Program.

6. Establish the compensation to be paid to a servicing carrier.

7. Establish the compensation to be paid to the Administrator.

Sec. 8. The Program must make available a low-cost automobile insurance policy for purchase by a person who meets the requirements set forth in section 10 of this act and any regulations adopted pursuant to section 7 of this act. A low-cost automobile insurance policy must:

1. Continuously provide, while the motor vehicle is present or registered in this State, insurance provided by a ~~producer of insurance~~ servicing carrier:

(a) In the amount of \$10,000 for bodily injury to or death of one person in any one accident;

(b) Subject to the limit for one person, in the amount of \$20,000 for bodily injury to or death of two or more persons in any one accident; and

(c) In the amount of \$3,000 for injury to or destruction of property of others in any one accident,

↪ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

2. Have an initial term of 1 year and be renewable on an annual basis thereafter.

3. Cover the person named in the policy and, to the same extent that insurance is provided to the named insured, any other person who uses the motor vehicle with the permission of the named insured. ~~Unless the person is a member of the household of the named insured and does not satisfy the requirements of subsections 3, 4 and 5 of section 10 of this act and any applicable regulations adopted pursuant to section 7 of this act.~~

4. Cover a motor vehicle with a value of \$20,000 or less as determined by the Department of Motor Vehicles.

Sec. 9. 1. In determining the rate for the purchase of low-cost automobile insurance policies, the Commissioner shall ensure that:

(a) The rate would be sufficient to cover the losses incurred under low-cost automobile insurance policies, including claims paid, claims incurred and reported and claims incurred but not yet reported, and the expenses of operating the Program, including, without limitation, the costs of administration, underwriting, taxes, commissions and adjustment of claims; and

(b) Except as otherwise provided in section 16 of this act, the rate would not result in a subsidy of the Program by policyholders ~~for the producers of insurance who participate in the Program if those policyholders,~~ who are not participants in the Program.

2. The rate for a low-cost automobile insurance policy may only be paid by:

(a) A payment by the insured of the entire rate upon the issuance or renewal of the low-cost automobile insurance policy;

(b) A payment by the insured of \$125 upon the issuance or renewal of the low-cost automobile insurance policy, followed by a payment of the remainder of the rate within 30 days after the payment made upon the issuance or renewal;

(c) A payment by the insured of \$100 upon the issuance or renewal of the low-cost automobile insurance policy, followed by six equal bimonthly payments of the remainder of the rate;

(d) A payment by the insured of \$125 upon the issuance or renewal of the low-cost automobile insurance policy, followed by five equal bimonthly payments of the remainder of the rate; or

(e) A payment by the insured of 15 percent of the rate upon the issuance or renewal of the low-cost automobile insurance policy, followed by six equal bimonthly payments of the remainder of the rate.

3. The insured may not finance the payment of the rate with any third party.

Sec. 10. A person may purchase a low-cost automobile insurance policy only if:

1. The person resides in, and the motor vehicle would be garaged in, a county whose population is 400,000 or more.

2. The person's household has a gross annual income which is at or below 250 percent of the federally designated level signifying poverty.

3. The person and each other person in the person's household who possesses a driver's license is at least 19 years of age and has been continuously licensed to drive a motor vehicle for at least the immediately preceding 3 years, including licensure in the United States or Canada for at least the immediately preceding 18 months.

4. The person and each other person in the person's household has been involved in or received, within the immediately preceding 3 years, not more than one of either, but not both, of:

(a) An accident involving only property damage for which the person was found to be at fault; and

(b) One demerit point for a moving traffic violation pursuant to the uniform system of demerit points established pursuant to NRS 483.473 or one conviction for a moving traffic violation of similar severity in another jurisdiction.

5. The person and each other person in the person's household has not been involved in an accident involving bodily injury or death for which the person involved in the accident was found to be at fault within the immediately preceding 3 years.

~~6. The person is not a college student claimed as a dependent of another person for federal income tax purposes.~~

Sec. 11. 1. A person may apply for a low-cost automobile insurance policy only through a producer of insurance.

2. Before accepting an application for a low-cost automobile insurance policy, the producer of insurance must provide the applicant with the following statement in 14-point bold type:

NOTICE

INSURANCE COVERAGE PROVIDED IN THE POLICY YOU ARE BUYING CONTAINS REDUCED LIABILITY COVERAGE FOR PERSONAL INJURIES OR PROPERTY DAMAGE RESULTING FROM THE OPERATION OF THE INSURED VEHICLE. IF LOSSES FROM AN AUTOMOBILE ACCIDENT EXCEED THE COVERAGE PROVIDED BY THIS POLICY, YOU CAN BE HELD PERSONALLY LIABLE AND RESPONSIBLE FOR THOSE LOSSES.

THIS POLICY PROVIDES LIABILITY COVERAGE FOR INJURIES OR DEATH CAUSED TO OTHER PERSONS IN THE TOTAL AMOUNT OF TEN THOUSAND DOLLARS (\$10,000) PER PERSON IN ANY ONE ACCIDENT, AND UP TO A TOTAL AMOUNT OF TWENTY THOUSAND DOLLARS (\$20,000) FOR ALL PERSONS IN ANY ONE ACCIDENT. THE POLICY ALSO PROVIDES UP TO A TOTAL AMOUNT OF THREE THOUSAND DOLLARS (\$3,000) IN LIABILITY COVERAGE FOR PROPERTY DAMAGE IN ANY ONE ACCIDENT. IF YOU WANT MORE INSURANCE COVERAGE, YOU MUST REQUEST A DIFFERENT POLICY.

THIS POLICY ALSO DOES NOT COVER DAMAGE TO YOUR OWN VEHICLE, LOSSES RESULTING FROM YOUR BODILY INJURY OR DEATH, ~~OR~~ LOSSES CAUSED BY AN UNINSURED OR UNDERINSURED DRIVER ~~OR~~ OR MEDICAL PAYMENTS. HOWEVER, ~~THESE OTHER COVERAGES MAY BE AVAILABLE AT EXTRA COST THROUGH OTHER POLICIES OR INSURERS.~~ COVERAGE FOR LOSSES CAUSED BY AN UNINSURED OR

UNDERINSURED DRIVER OR FOR MEDICAL PAYMENTS MAY BE ADDED TO THIS POLICY FOR AN EXTRA CHARGE.

THIS POLICY DOES NOT COVER ANY ~~{OTHER}~~ DRIVER ~~{IN YOUR HOUSEHOLD}~~ WHO:

~~(1) IS UNDER 19 YEARS OF AGE; OR~~

~~(2) HAS LESS THAN 3 YEARS OF CONTINUOUSLY LICENSED DRIVING EXPERIENCE; OR~~

~~(3) HAS BEEN INVOLVED IN OR RECEIVED, IN THE PREVIOUS 3 YEARS, MORE THAN ONE OF EITHER, OR HAS BOTH, OF THE FOLLOWING:~~

~~— AN ACCIDENT INVOLVING PROPERTY DAMAGE IN WHICH THE DRIVER WAS AT FAULT; OR~~

~~— A DEMERIT POINT FOR A MOVING TRAFFIC VIOLATION OR A CONVICTION FOR A SIMILAR VIOLATION IN ANOTHER JURISDICTION; OR~~

~~(4) HAS, IN THE PREVIOUS 3 YEARS, BEEN INVOLVED IN AN ACCIDENT INVOLVING BODILY INJURY OR DEATH IN WHICH THE DRIVER WAS AT FAULT.~~ DOES NOT HAVE YOUR PERMISSION TO OPERATE YOUR VEHICLE.

3. An application for a low-cost automobile insurance policy must include:

(a) An application form approved by the Commissioner;

(b) A copy of the applicant's federal income tax return for the previous year or some other reliable evidence of income that shows that the applicant meets the financial eligibility requirement set forth in section 10 of this act and any regulations adopted pursuant to section 7 of this act; and

(c) A statement signed by the applicant that the representations made in the documents submitted as proof of financial eligibility and the application are true, correct and contain no material misrepresentations or omissions of fact to the best knowledge and belief of the applicant.

4. The producer of insurance shall forward the application materials required by subsection 3 to the ~~{Commissioner}~~ Administrator.

Sec. 12. 1. A producer of insurance, servicing carrier and the Administrator may only charge the rate established by the Commissioner for the low-cost automobile insurance policy.

2. The producer of insurance, servicing carrier and Administrator may not charge or collect any other fee of any kind in connection to the sale of a low-cost automobile insurance policy.

3. The producer of insurance may not condition the sale of a low-cost automobile insurance policy on the purchase of any other product or service.

Sec. 13. 1. A low-cost automobile insurance policy may be cancelled only for:

(a) Nonpayment of premium;

(b) Fraud or material misrepresentation affecting the policy or the insured; or

(c) The purchase of additional liability coverage in violation of section 14 of this act.

2. Renewal of a low-cost automobile insurance policy may be denied only if:

(a) There is a substantial increase in the hazard insured against; or

(b) The insured no longer meets the eligibility requirements set forth in section 10 of this act and any regulations adopted pursuant to section 7 of this act.

Sec. 14. 1. A person who purchases a low-cost automobile insurance policy may not purchase motor vehicle liability coverage in addition to the liability coverage provided by the low-cost automobile insurance policy.

2. A person who purchases a low-cost automobile insurance policy may not purchase or maintain any motor vehicle liability coverage other than a low-cost automobile insurance policy for any other motor vehicles in the person's household.

3. No more than two low-cost automobile insurance policies may be purchased in a household.

4. A person who purchases a low-cost automobile insurance policy may purchase any other additional type of motor vehicle insurance coverage outside of the Program, including, without limitation, ~~uninsured or underinsured motorist coverage,~~ collision coverage or comprehensive coverage.

Sec. 15. Each ~~producer of insurance~~ insurer who delivers, issues for delivery or renews in this State a motor vehicle liability policy covering a private passenger vehicle must participate in the Program ~~and must offer low cost automobile insurance policies~~ as required by sections 2 to 17, inclusive, of this act and the regulations adopted pursuant to section 7 of this act.

Sec. 16. 1. The Commissioner ~~shall~~ may assess each insurer who delivers, issues for delivery or renews in this State a motor vehicle liability policy covering a private passenger vehicle an amount of ~~30~~ not more than 50 cents for each ~~such~~ private passenger vehicle insured under the policy that is sold or renewed in this State. The Commissioner may adjust the amount assessed to each insurer pursuant to this subsection based on the expenses and experience of the Program.

2. The Commissioner shall allocate ~~25~~ 5 cents of each assessment collected pursuant to this section to ~~defray the costs and expenses of the Program.~~ inform consumers about the existence of the Program.

3. The Commissioner shall allocate ~~5 cents of~~ the remainder of each assessment collected pursuant to this section to ~~inform consumers about the existence~~ defray the costs and expenses of the Program.

4. The Account for the Low-Cost Automobile Insurance Pilot Program is hereby created in the State Agency Fund for Bonds. All money received

by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account for the Low-Cost Automobile Insurance Pilot Program. All claims against the Account must be paid as other claims against the State are paid. The Commissioner may authorize expenditures from the Account to pay the expenses for the administration of the Program.

5. The Commissioner shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations governing the calculation and collection of the assessment.

Sec. 17. Notwithstanding any other provision of law, a low-cost automobile insurance policy issued pursuant to sections 2 to 17, inclusive, of this act shall be deemed to satisfy the requirements for liability coverage for a motor vehicle otherwise required by law.

Sec. 18. NRS 485.185 is hereby amended to read as follows:

485.185 ~~Every~~

1. Except as otherwise provided in subsection 2, every owner of a motor vehicle which is registered or required to be registered in this State shall continuously provide, while the motor vehicle is present or registered in this State, insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State:

~~1-1~~ (a) In the amount of \$15,000 for bodily injury to or death of one person in any one accident;

~~2-1~~ (b) Subject to the limit for one person, in the amount of \$30,000 for bodily injury to or death of two or more persons in any one accident; and

~~3-1~~ (c) In the amount of \$10,000 for injury to or destruction of property of others in any one accident,

↪ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

2. Notwithstanding the coverage limits provided in subsection 1, an owner of a motor vehicle which is registered or required to be registered in this State may satisfy the requirements of subsection 1 by continuously providing, while the motor vehicle is present or registered in this State, insurance provided pursuant to sections 2 to 17, inclusive, of this act:

(a) In the amount of \$10,000 for bodily injury to or death of one person in any one accident;

(b) Subject to the limit for one person, in the amount of \$20,000 for bodily injury to or death of two or more persons in any one accident; and

(c) In the amount of \$3,000 for injury to or destruction of property of others in any one accident,

↪ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

Sec. 19. NRS 485.210 is hereby amended to read as follows:

485.210 For the purposes of NRS 485.200, a policy or bond is not effective unless:

1. The policy or bond is subject ~~H~~ :

(a) Except as otherwise provided in paragraph (b), if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than \$15,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of not less than \$30,000 because of bodily injury to or death of two or more persons in any one accident and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$10,000 because of injury to or destruction of property of others in any one accident; **or**

(b) For a policy of liability insurance issued pursuant to sections 2 to 17, inclusive, of this act, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than \$10,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of not less than \$20,000 because of bodily injury to or death of two or more persons in any one accident and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$3,000 because of injury to or destruction of property of others in any one accident; and

2. The insurance company or surety company issuing that policy or bond is authorized to do business in this State or, if the company is not authorized to do business in this State, unless it executes a power of attorney authorizing the Director to accept service on its behalf of notice or process in any action upon that policy or bond arising out of an accident.

Sec. 20. NRS 485.304 is hereby amended to read as follows:

485.304 ~~Judgments~~

1. Except as otherwise provided in subsection 2, judgments must , for the purpose of this chapter only, be deemed satisfied:

~~{1-}~~ **(a)** When \$15,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident;

~~{2-}~~ **(b)** When, subject to the limit of \$15,000 because of bodily injury to or death of one person, the sum of \$30,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

~~{3-}~~ **(c)** When \$10,000 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident,

➤ but payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident must be credited in reduction of the amounts provided for in this section.

2. If the person against whom the judgment was rendered is covered by a policy of liability insurance issued pursuant to sections 2 to 17, inclusive, of this act, judgments must, for the purpose of this chapter only, be deemed satisfied:

(a) When \$10,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident;

(b) When, subject to the limit of \$10,000 because of bodily injury to or death of one person, the sum of \$20,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

(c) When \$3,000 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident,

↪ but payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident must be credited in reduction of the amounts provided for in this section.

Sec. 21. NRS 485.3091 is hereby amended to read as follows:

485.3091 1. An owner's policy of liability insurance must:

(a) Designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

(b) Insure the person named therein and any other person, as insured, using any such motor vehicle with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows:

(1) Except as otherwise provided in subparagraph (2):

(I) Because of bodily injury to or death of one person in any one accident, \$15,000;

~~{(2)}~~ **(II)** Subject to the limit for one person, because of bodily injury to or death of two or more persons in any one accident, \$30,000; and

~~{(3)}~~ **(III)** Because of injury to or destruction of property of others in any one accident, \$10,000.

(2) For a policy of liability insurance issued pursuant to sections 2 to 17, inclusive, of this act:

(I) Because of bodily injury to or death of one person in any one accident, \$10,000;

(II) Subject to the limit for one person, because of bodily injury to or death of two or more persons in any one accident, \$20,000; and

(III) Because of injury to or destruction of property of others in any one accident, \$3,000.

2. An operator's policy of liability insurance must insure the person named as insured therein against loss from the liability imposed upon the person by law for damages arising out of the person's use of any motor vehicle within the same territorial limits and subject to the same limits of liability as are set forth in **subparagraph (1) of** paragraph (b) of subsection 1.

3. A motor vehicle liability policy must state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the period of effectiveness and the limits of liability, and must contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

4. A motor vehicle liability policy need not insure any liability under any workers' compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any motor vehicle owned by the insured nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

5. Every motor vehicle liability policy is subject to the following provisions which need not be contained therein:

(a) The liability of the insurance carrier with respect to the insurance required by this chapter becomes absolute whenever injury or damage covered by the policy occurs. The policy may not be cancelled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage. No statement made by the insured or on behalf of the insured and no violation of the policy defeats or voids the policy.

(b) The satisfaction by the insured of a judgment for injury or damage is not a condition precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage.

(c) The insurance carrier may settle any claim covered by the policy, and if such a settlement is made in good faith, the amount thereof is deductible from the limits of liability specified in paragraph (b) of subsection 1.

(d) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this chapter constitute the entire contract between the parties.

6. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and the excess or additional coverage is not subject to the provisions of this chapter.

7. Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

8. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers, which policies together meet those requirements.

9. Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

Sec. 22. 1. On or before February 1, 2013, the Commissioner of Insurance shall submit a report on the effectiveness of the Low-Cost

Automobile Insurance Pilot Program and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 77th Session of the Nevada Legislature.

2. As used in this section, “Low-Cost Automobile Insurance Pilot Program” means the program created pursuant to section 6 of this act.

Sec. 23. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2012, for all other purposes.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 307.

Bill read second time.

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

Amendment No. 437.

AN ACT relating to governmental administration; prohibiting a person from commencing the construction of an energy development project without first filing a notice with the Office of Energy within the Office of the Governor; creating the Energy Planning and ~~Mitigation~~ **Conservation** Fund; requiring the Office of Energy to coordinate with the Department of Wildlife to use money from the Fund for certain wildlife monitoring activities; 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 monitoring the effects of certain energy development projects on wildlife and its habitat.

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 projects and systems: (1) which have a capacity of not more than 400 kilowatts; (2) which are attached to school property or private residential property; or (3) which do not require the disturbance of any soil from the provisions of this bill.

Section 7 of this bill requires any person who wishes to commence construction of an energy development project to file notice with the Office of Energy at the same time that the person files for any ~~construction or other~~ permits, **leases or easements for rights-of-way** required by state or federal law. 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 a person to pay both a filing fee of not more than \$500 and a second fee **of at least \$35,000 but not more than \$100,000** based upon **the potential of the energy development project for impact on wildlife and its habitat**, the acreage of the energy development project and the area of land to be disturbed by the energy development project. The Office of Energy is required to establish the second fee in consultation with the Department of Wildlife, and those fees are to be deposited in the Energy Planning and ~~Mitigation~~ **Conservation** Fund created by **section 9** of this bill. **Section 9** requires the money in the Fund to be administered by the Director of the Office of Energy and used by the Department of Wildlife for conducting surveys of wildlife, for mapping locations of wildlife and its habitat and for ~~mitigation~~ **conservation** projects for the habitat of wildlife impacted by energy development projects.

Section 8 of this bill requires the Office of Energy 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.

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 ~~1-1~~ **and sections 7 and 9 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 and 9 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.

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 ~~or~~ **or money received from the Director of the Office of Energy from the Energy Planning and ~~(Mitigation)~~ Conservation Fund created by section 9 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, 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 and which have or will have a nameplate capacity of not more than 70 megawatts, including, without limitation, a net metering system, as defined in NRS 704.771, constructed on private land.

Sec. 6. ***The provisions of sections 7, 8 and 9 of this act do not apply to:***

1. A facility or energy system with a capacity of not more than 400 kilowatts;

2. A net metering system attached to school property or private residential property; or

3. A project or energy system the construction of which does not require the disturbance of any soil, including, without limitation, projects or systems constructed on an existing structure or atop existing pavement.

Sec. 7. 1. ***Except as otherwise provided in section 6 of this act, a person shall not commence construction of an energy development project***

without first filing a notice of the energy development project with the Office of Energy.

2. The notice required by subsection 1 must be:

(a) Provided to the Office of Energy in such form as the Office prescribes and contain:

(1) A description of the location and the energy development project to be built thereon; ~~and~~

(2) A description of the boundaries of the project and the estimated requirements for infrastructure of the project; and

(3) The estimated energy output for the energy development project;

(b) Filed with the Office concurrently with any application for permits, leases or easements for ~~construction of~~ rights-of-way for the energy development project filed with:

(1) The Federal Government, pursuant to any federal law or regulation; or

(2) ~~The Public Utilities Commission of Nevada, pursuant to NRS 704.820 to 704.900, inclusive; or~~

(3) ~~Any other~~ state or local governmental entity; and

(c) Accompanied by a filing fee of not more than \$500, as specified in regulations adopted by the Office.

3. In addition to the fee required by subsection 2, the Office of Energy shall, in consultation with the Department of Wildlife, establish and collect a fee for each energy development project of at least \$35,000 but not more than \$100,000, pursuant to a schedule of fees set forth in regulations adopted by the Office based on the potential for impact on wildlife and its habitat and the acreage of the energy development project, including, without limitation, any roads used for access to the energy development project and the area of land disturbed by the energy development project.

Sec. 8. The Office of Energy 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; and

(c) The estimated energy output of the energy development project.

2. Prepare a report containing the information compiled pursuant to subsection 1.

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 Office of Energy 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 ~~Mitigation~~ Conservation Fund is hereby created in the State Treasury as a special revenue fund.

2. All money collected by the Office of Energy pursuant to subsection 3 of section 7 of this act must be deposited in the State Treasury for credit to the Fund. The Director of the Office of Energy 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 Office of Energy shall administer the Fund. The money in the Fund must be provided to the Department of Wildlife and used:

- (a) To conduct surveys of wildlife;
- (b) To map locations of wildlife and wildlife habitat in this State;
- (c) To pay for ~~mitigation~~ conservation projects for ~~the habitat of~~ wildlife ~~impacted by energy development projects,~~ and its habitat;
- (d) To provide staff to assist the Director of the Department of Wildlife in carrying out the provisions of paragraphs (a), (b) and (c) ~~and~~; and
- (e) To coordinate carrying out the provisions of paragraphs (a), (b) and (c) in cooperation with the State Department of Conservation and Natural Resources.

5. The Director of the Office of Energy shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation:

- (a) The criteria for projects for which the Department of Wildlife may use money from the Fund; and
- (b) Procedures to distribute money from the Fund.

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. *Adopt any regulations necessary to carry out the provisions of sections 6 to 9, inclusive, of this act and shall coordinate with the Department of Wildlife to carry out those provisions.*

8. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 12. The Office of Energy 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.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 368.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 233.

AN ACT relating to livestock; requiring the State Department of Agriculture to prepare and maintain certain books in an electronic format; authorizing a person to transport a saddle horse into and from this State without a brand inspection or livestock movement permit issued by the Department under certain circumstances; ~~requiring an inspector of the Department to carry or make available for use during a brand inspection a scanner or other device used to read an identification microchip subcutaneously implanted into livestock;~~ revising provisions governing certain fees collected by the Department; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires any written instrument evidencing the transfer of ownership of any livestock brand or marks to be recorded in the Office of the State Department of Agriculture in a book provided by the Department for that purpose. (NRS 564.110) Existing law also authorizes the Department to compile and issue books and supplements to those books which set forth the records of the Department of all livestock brands and marks which may be found on any animals in this State. (NRS 564.130) **Sections 1 and 2** of this bill require the Department to make those books available in an electronic format and authorize the Department to include, in certain fees collected by

the Department, any costs incurred by the Department in preparing those books in an electronic format.

Existing law authorizes the Director of the Department to establish brand inspection districts in this State. If such districts are established, any animal within those districts is subject to brand inspection before the animal may be consigned for slaughter, sold or removed from any of those districts. (NRS 565.040, 565.090) **Section 3** of this bill authorizes a person to transport ~~not more than 10~~ **a saddle ~~(horses)~~ horse** into and from this State without a brand inspection or livestock movement permit issued by the Department. ~~[Any]~~ **Unless a shorter period is prescribed by the Department, any** horse so transported must not remain more than ~~[24]~~ **15** days in this State and must not be transported into or from this State more than once during that period.

~~[Section 6 of this bill requires each inspector of the Department, while conducting a brand inspection, to carry or otherwise make available for use a scanner or other device used for reading an identification microchip that has been subcutaneously implanted into any livestock inspected. Section 6 authorizes the Department to include, in any fee collected by the Department for conducting the brand inspection, any cost incurred by the Department in using the scanner or other device during the brand inspection.]~~

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

Section 1. NRS 564.110 is hereby amended to read as follows:

564.110 1. Any brand or brand and mark or marks awarded and recorded and remaining of record in accordance with the terms of this chapter, including those transferred legally as provided in this section, are the property of the person to whom they stand of record as provided in this chapter and are subject to sale, assignment, transfer, security agreement or lien, devise and descent the same as other personal property.

2. Instruments of writing evidencing the sale, assignment, transfer, security agreement, lien, devise or descent must be in that form, as to text, signatures, witnesses, acknowledgments or certifications, required by statutes, in the case of the kind of instrument concerned, but the Department may secure such competent legal advice or rulings, and require such supporting evidence as it deems necessary, as to such instruments of writing, being in fact, authentic and in legal form, before approving and recording those instruments of writing as provided in this chapter.

3. Instruments in writing evidencing the transfer of ownership of any brand or brand and mark or marks must, after approval, be recorded in the office of the Department in a book to be provided for that purpose, and are not legally binding until so approved by the Department and recorded. ***In addition to any other format, the Department shall prepare and maintain the book required by this subsection in an electronic format. The Department may include, in any fee collected by the Department for the recording of the instruments pursuant to NRS 564.080, any costs incurred***

by the Department in preparing and maintaining the book in an electronic format pursuant to this subsection.

4. The recording of those instruments has the same force and effect as to third parties as the recording of instruments affecting the sale, assignment, transfer, devise or descent of other personal property. The original, or a certified copy of any such instrument, may be introduced in evidence in the same manner as is provided for similar instruments affecting personal property, and the record of the instrument or instruments of transfer, or the transcript thereof certified by the custodian of the record, may be read in evidence without further proof.

5. If any brand or brand and mark or marks of record, in accordance with the provisions of this chapter, becomes the subject of, or is included in, any security agreement, provisional assignment or legal lien, the secured party, provisional assignee or lienholder may notify the Department in writing as to the existence and conditions of the security agreement, provisional assignment or lien. After the receipt of the written notice, the Department shall not transfer the brand or brand and mark or marks, other than to the secured party, provisional assignee or lienholder until there is filed with the Department satisfactory legal evidence that the security agreement, provisional assignment or lien has been legally satisfied and removed.

6. No transfer or change, or partial, joint or complete ownership, of any brand under the provisions of this section:

(a) Grants or recognizes any change in the method or area of its use from that authorized at the time of recording, or subsequent thereto but before the transfer or change of ownership; or

(b) Waives or modifies the rerecording requirements set forth in NRS 564.120.

Sec. 2. NRS 564.130 is hereby amended to read as follows:

564.130 1. The Department may compile and issue books, and supplements thereto, containing transcripts of part or all of its records of brands and marks, so arranged and indexed as to be suitable for use in identifying any brands or marks which may be found in this State on any animals, or the hides thereof, and used in compliance with the provisions of this chapter.

2. Copies of the brand books and supplements must be made available to any person at a charge to be fixed by the Department, but the charge must not be less than the cost of compilation, publication and issuance.

3. Copies of the brand books or supplements may be furnished by the Department, without charge, to any public officer or other person whose possession of the book or supplements will, in the opinion of the Department, serve to promote the general welfare.

4. In addition to any other format, the Department shall make any copies of the brand books and supplements available pursuant to this section available in an electronic format. The Department may include, in the amount of any charge fixed by the Department pursuant to subsection

2, any costs incurred by the Department in preparing those copies pursuant to this subsection.

Sec. 3. Chapter 565 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who resides in a state which does not require the use or inspection of a brand for a horse in that state may transport ~~not more than 101~~ a saddle ~~horses~~ horse owned by that person into and from this State without a brand inspection or livestock movement permit issued by the Department. Any saddle horse transported pursuant to this section must not remain in this State for more than ~~21~~ 15 days or any shorter period specified by the Department and must not be transported into or from this State more than once during that period. Upon request by the Department, a person who transports a saddle horse pursuant to this section shall present to the Department a certificate of health for the saddle horse and a bill of sale or other proof of ownership of the saddle horse required by the Department.

2. As used in this section, "saddle horse" means any horse which ~~is~~
~~(a) Is owned by a person who resides in a state which does not require the use or inspection of a brand for the horse in that state;~~
~~(b) Is~~ is ridden or otherwise used by ~~the~~ a person while competing or participating in ~~any event~~ a rodeo, horse show or other ~~activity~~ contest of skill in this State ~~and~~
~~(c) Is not placed or kept in a corral or other enclosure with any other horse during an event or other activity specified in paragraph (b).~~
~~The term does not include a horse which is ridden by a person who is a contestant in~~ other than a bucking event at ~~a~~ that rodeo, horse show or ~~other~~ contest of skill, in this State.

Sec. 4. NRS 565.040 is hereby amended to read as follows:

565.040 1. The Director may declare any part of this State a brand inspection district.

2. After the creation of any brand inspection district as authorized by this chapter, all animals within any such district are subject to brand inspection in accordance with the provisions of this chapter before:

(a) Consignment for slaughter within any district;
 (b) Any transfer of ownership by sale or otherwise; or
 (c) Removal from the district if the removal is not authorized pursuant to a livestock movement permit issued by the Department ~~or~~ or pursuant to section 3 of this act.

3. If a brand inspection district is created by the Department pursuant to the provisions of this chapter, the Director shall adopt regulations defining the boundaries of the district and the fees to be collected for brand inspection and prescribing such other methods of procedure not inconsistent with the provisions of this chapter as the Director considers necessary.

4. Any regulations adopted pursuant to the provisions of this section must be published at least twice in a newspaper having a general circulation

in the brand inspection district created by the regulations, and copies of the regulations must be mailed to all common carriers of record with the Nevada Transportation Authority operating in the brand inspection district. Such publication and notification constitutes legal notice of the creation of the brand inspection district. The expense of advertising and notification must be paid from the Livestock Inspection Account.

Sec. 5. NRS 565.090 is hereby amended to read as follows:

565.090 1. Except as otherwise provided in subsections 3 and 6 ~~and~~ **section 3 of this act**, it is unlawful for any person to drive or otherwise remove any animals out of a brand inspection district created under the provisions of this chapter until the animals have been inspected and a brand inspection clearance certificate is issued by the Department or a written permit from the Department has been issued authorizing the movement without brand inspection.

2. Any person contemplating the driving or movement of any animals out of a brand inspection district shall notify the Department or an inspector thereof of the person's intention, stating:

(a) The place at which it is proposed to cross the border of the brand inspection district with the animals.

(b) The number and kind of animals.

(c) The owner of the animals.

(d) The brands and marks of the animals claimed by each owner and, if they are other than the brands and marks legally recorded in the name of the owner, information concerning the basis for the claim of ownership or legal possession.

(e) The date of the proposed movement across the border of the brand inspection district and the destination of the movement.

(f) If a brand inspection is required, a statement setting forth the place where the animals will be held for brand inspection.

3. The provisions of this section do not apply to animals whose accustomed range is on both sides of the boundary of any brand inspection district but contiguous to that district and which are being moved from one portion of the accustomed range to another merely for pasturing and grazing thereon.

4. ~~The~~ **Except as otherwise provided in section 3 of this act, the** provisions of this section apply at all times to the movement of any animals across the Nevada state line to any point outside of the State of Nevada, except animals whose accustomed range is on both sides of the Nevada state line but contiguous thereto and which are being moved from one portion to another of the accustomed range merely for pasturing and grazing thereon.

5. In addition to the penalty imposed in NRS 565.170, a person who violates the provisions of subsection 1 is:

(a) For the first violation, subject to an immediate brand inspection of the animals by the Department and shall reimburse the Department for its time and mileage and pay the usual fees for the brand inspection.

(b) For the second and any subsequent violation, ineligible for a permit to move any livestock without a brand inspection until the State Board of Agriculture is satisfied that any future movement will comply with all applicable statutes and regulations.

6. The Department may establish regulations specifying the circumstances under which a permit may be issued authorizing the movement of livestock without a brand inspection pursuant to this section. The circumstances may include, without limitation, the routine movement of horses and bulls within and from this State for the purpose of participating in a rodeo.

Sec. 6. ~~NRS 565.100 is hereby amended to read as follows:~~

~~565.100 1. It is unlawful for any person to consign for slaughter, or slaughter at an approved plant, or transfer ownership of any animals by sale or otherwise within any brand inspection district created under the provisions of this chapter, until the animals have been inspected by an inspector of the Department and a brand inspection clearance certificate issued covering the animals.~~

~~2. During any inspection of brands conducted by an inspector of the Department, the inspector shall carry or otherwise make available for use a scanner or other device which is used to read an identification microchip subcutaneously implanted into any livestock inspected. The Department may include, in any fee collected by the Department for conducting the inspection pursuant to NRS 565.070, any cost incurred by the Department in using the scanner or other device during the inspection.~~ (Deleted by amendment.)

Sec. 7. This act becomes effective on July 1, 2011.

Assemblywoman Carlton moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 374.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 317.

SUMMARY ~~[Directs the Department of Administration and the Department of Transportation to conduct a joint review of the]~~ **Revises provisions governing the purchase of certain** mobile equipment ~~[owned]~~ by the Department of Transportation. (BDR ~~[S-852])~~ **35-852)**

AN ACT relating to mobile equipment; ~~[directing the Department of Administration and]~~ **requiring the Director of** the Department of Transportation to ~~[conduct a joint review of the]~~ **submit a report to the Governor and the Legislature relating to the purchase or leasing of certain** mobile equipment ~~[owned by the Department of Transportation and a joint]~~ **, requiring the Department to prepare and present an** analysis of

the costs and benefits associated with the purchasing or leasing of ~~that~~ certain mobile equipment ~~for the Department of Transportation~~; prohibiting the Board of Directors of the Department from approving the purchase of certain mobile equipment unless the Department justifies the purchase based on the costs and benefits analysis; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Transportation to submit various reports to the Legislature concerning the activities of the Department. (NRS 408.203) Section 2 of this bill provides that, on or before February 1 of each odd-numbered year, the Director is required to submit a report to the Governor and the Legislature concerning all mobile equipment purchased or leased in the previous 2 years. Section 2 further requires that the report include, without limitation, the costs and benefits analysis prepared pursuant to section 3 of this bill and the justification for the decision to purchase or lease the mobile equipment.

Existing law requires the Board of Directors of the Department ~~of Transportation~~ to authorize the purchase by the Department ~~of Transportation~~ of any equipment which exceeds \$50,000. (NRS 408.389) ~~Further, existing law requires the Chief of the Purchasing Division of the Department of Administration to adopt regulations which set forth standards to be used by agencies when purchasing new equipment to determine whether that equipment can be leased or rented at a cost that is equal to or less than the cost of purchasing the equipment. (NRS 333.155) Existing regulations of the Purchasing Division provide that before an agency may acquire through the Division an item of equipment which is needed for a fixed period and for which the cost is not included in the executive budget, the agency must obtain from the Division a determination of which method of acquiring the item is the most cost effective and in the best interest of this State. (NAC 333.110)~~

~~This bill requires the Department of Administration and the Department of Transportation to conduct a joint review of all mobile equipment currently owned by the Department of Transportation. The review must include such considerations as an analysis of the costs paid for the equipment, the number of hours the equipment is used per year throughout the State, the cost of maintenance, the manner in which maintenance is performed and the cost of renting or leasing the same piece of equipment. This bill also requires the Department of Administration and the Department of Transportation to analyze the costs and benefits of purchasing versus leasing each type of mobile equipment used by the Department of Transportation and to establish criteria to be used when making a determination whether to purchase or lease such equipment in the future. Further, Department of Administration and the Department of Transportation must make recommendations for legislation to carry out the criteria and any other changes to legislation relating to~~

~~purchasing versus renting or leasing equipment by the Department of Transportation. On or before January 1, 2013, a report containing the review and all recommendations must be submitted to the Director of the Legislative Counsel Bureau for transmittal to the Senate Standing Committee on Transportation, the Assembly Standing Committee on Transportation, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means.~~ **Section 3 provides that, before the Board may approve the purchase of any mobile equipment which exceeds \$50,000, the Department is required to prepare and present a costs and benefits analysis of purchasing or leasing the mobile equipment and justify purchasing instead of leasing based on that analysis. Section 3 further prohibits the Board from approving any purchase of mobile equipment which exceeds \$50,000 unless the Department is able to justify purchasing instead of leasing based on that analysis.**

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

Section 1. ~~{1. The Department of Administration and the Department of Transportation shall jointly conduct a review of all mobile equipment owned by the Department of Transportation on and after July 1, 2011, but before January 1, 2013. For each piece of equipment, the review must include, without limitation:~~

- ~~(a) The date the equipment was purchased;~~
- ~~(b) The total number of hours the equipment has been used in each year since the equipment was purchased;~~
- ~~(c) The need for the equipment in this State;~~
- ~~(d) The geographic region of this State in which the equipment was most used;~~
- ~~(e) The cost of purchasing the equipment, including, without limitation:

 - ~~(1) The price of the equipment;~~
 - ~~(2) The associated cost of administration;~~
 - ~~(3) The cost of transportation;~~
 - ~~(4) The cost of maintenance;~~
 - ~~(5) The estimated life of the equipment;~~
 - ~~(6) The salvage value of the equipment at the expiration of its estimated life; and~~~~
- ~~(7) Any other information that may materially affect the cost of purchasing the equipment;~~
- ~~(f) The manner in which maintenance is performed on the equipment;~~
- ~~(g) The cost of renting or leasing the same item of equipment, including, without limitation:

 - ~~(1) The amount of the required initial payment;~~
 - ~~(2) The amount of each required monthly payment;~~
 - ~~(3) The associated cost of administration;~~~~

- ~~(4) The cost of transportation;~~
- ~~(5) The cost of maintenance;~~
- ~~(6) The cost of returning the equipment;~~
- ~~(7) The cost of wear and tear caused to the equipment;~~
- ~~(8) The estimated resale value of the equipment at the expiration of the term of the rental agreement or lease; and~~
- ~~(9) Any other information that may materially affect the cost of renting or leasing the equipment;~~
- ~~(h) An analysis of the costs and benefits of purchasing versus leasing the equipment based upon paragraphs (a) to (g), inclusive, and any other factors which may affect such a decision; and~~
- ~~(i) A recommendation as to whether it is more beneficial and cost effective to this State to retain ownership of the equipment or to sell or otherwise dispose of the equipment and enter into a rental agreement or lease for any new equipment.~~

~~2. Based upon the review completed pursuant to subsection 1, the Department of Administration and the Department of Transportation shall jointly establish criteria for determining the circumstances under which the Department of Transportation is required to enter into a rental agreement or lease for new mobile equipment rather than purchase such equipment.~~

~~3. On or before January 1, 2013, the Department of Administration and the Department of Transportation shall jointly prepare and submit a report containing a summary of the review required pursuant to subsection 1, the criteria established pursuant to subsection 2 and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to:~~

- ~~(a) The Senate Standing Committee on Transportation;~~
- ~~(b) The Assembly Standing Committee on Transportation;~~
- ~~(c) The Senate Standing Committee on Finance; and~~
- ~~(d) The Assembly Standing Committee on Ways and Means.~~ **(Deleted by amendment.)**

Sec. 2. NRS 408.203 is hereby amended to read as follows:

408.203 The Director shall:

1. Compile a comprehensive report outlining the requirements for the construction and maintenance of highways for the next 10 years, including anticipated revenues and expenditures of the Department, and submit it to the Director of the Legislative Counsel Bureau for transmittal to the Chairs of the Senate and Assembly Standing Committees on Transportation.

2. Compile a comprehensive report of the requirements for the construction and maintenance of highways for the next 3 years, including anticipated revenues and expenditures of the Department, no later than October 1 of each even-numbered year, and submit it to the Director of the Legislative Counsel Bureau for transmittal to the Chairs of the Senate and Assembly Standing Committees on Transportation.

3. Report to the Legislature by February 1 of odd-numbered years the progress being made in the Department's 12-year plan for the resurfacing of state highways. The report must include an accounting of revenues and expenditures in the preceding 2 fiscal years, a list of the projects which have been completed, including mileage and cost, and an estimate of the adequacy of projected revenues for timely completion of the plan.

4. On or before February 1 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning all mobile equipment purchased or leased by the Department in the preceding 2 fiscal years. The report must include, without limitation, an analysis of the costs and benefits of each purchase or lease prepared pursuant to subsection 2 of NRS 408.389, the justification for the decision to purchase or lease and any other information required by the Director relating to such purchase or lease.

Sec. 3. NRS 408.389 is hereby amended to read as follows:

408.389 1. ~~The~~ **Except as otherwise provided in subsection 2, the** Department shall not purchase any equipment which exceeds \$50,000, unless the purchase is first approved by the Board.

2. **Before the Board may approve the purchase of any mobile equipment which exceeds \$50,000, the Department shall:**

(a) Prepare and present to the Board an analysis of the costs and benefits associated with purchasing or leasing the same item of mobile equipment; and

(b) Justify the need for the purchase based on that analysis.

3. The Board shall not ~~Delegate~~ :

(a) Delegate to the Director its authority to approve purchases of equipment pursuant to subsection 1, ~~1.1~~; **or**

(b) Approve any purchase of mobile equipment which exceeds \$50,000 and for which the Department is unable to provide justification pursuant to subsection 2.

~~Sec. 2.1~~ **Sec. 4.** This act becomes effective on July 1, 2011.

Assemblywoman Dondero Loop moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 398.

Bill read second time.

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

Amendment No. 281.

AN ACT relating to commercial tenancies; prohibiting a landlord's interference with a tenant's use of commercial premises under certain circumstances; establishing a procedure for a tenant to recover possession of commercial premises following a lockout; establishing requirements for

accounting for, charges against and refund of security deposits; prohibiting a landlord from assessing charges against a tenant except under certain circumstances; setting forth the circumstances under which a tenant can be presumed to have abandoned commercial premises; repealing and reenacting provisions relating to the disposal of personal property abandoned by a tenant on commercial premises; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 14 of this bill prohibits a landlord from interfering in certain manners with a tenant's use of commercial premises.

Section 15 of this bill establishes a process for a tenant to recover possession of commercial premises from which a landlord has locked the tenant out.

Sections 16 and 27 of this bill repeal and reenact provisions authorizing a landlord to dispose of abandoned personal property left on commercial premises by a tenant under certain circumstances.

Sections 17-23 of this bill set forth requirements for the accounting for, refund of and charges against security deposits.

Section 24 of this bill prohibits a landlord from charging a tenant for rent or physical damages to commercial premises except under certain circumstances.

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

Section 1. Title 10 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 24, inclusive, of this act.

Sec. 2. *As used in sections 2 to 24, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 12, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 3. *"Abandoned personal property" means any personal property which is left unattended on commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has ~~perfect~~ perfected lien on, or perfected security interest in, the personal property within 14 days after ~~the later of~~ the date on which the landlord ~~is~~*

~~1. Mailed, or~~ **mailed**, by certified mail, return receipt requested, notice of the landlord's intention to dispose of the personal property, as required by ~~subparagraph (1) of~~ paragraph (a) of subsection 1 of section 16 of this act ~~is or~~

~~2. Provided notice to a person who has a perfected lien on, or a perfected security interest in, the personal property that the personal property has been left on the commercial premises, as required by subparagraph (2) of paragraph (a) of subsection 1 of section 16 of this act.]~~

Sec. 4. “Action” includes a counterclaim, crossclaim, third-party claim or any other proceeding in which rights are determined.

Sec. 4.5. “Commercial premises” means any real property other than premises as defined in NRS 118A.140.

Sec. 5. “Court” means the district court, justice court or other court of competent jurisdiction situated in the county or township wherein the commercial premises are located.

Sec. 6. “Landlord” means a person who provides commercial premises for use by another person pursuant to a rental agreement.

Sec. 7. “Owner” means one or more persons, jointly or severally, in whom is vested:

1. All or part of the legal title to a commercial premises, except a trustee under a deed of trust who is not in possession of the commercial premises; or

2. All or part of the beneficial ownership, and a right to present use and enjoyment of the commercial premises.

Sec. 8. “Person” includes a government, a governmental agency and a political subdivision of a government.

Sec. 9. “Rent” means all periodic payments to be made to the landlord for occupancy of commercial premises, including, without limitation, all reasonable and actual late fees set forth in the rental agreement.

Sec. 10. “Rental agreement” means an agreement to lease or sublease commercial premises for a term less than life which provides for the periodic payment of rent.

Sec. 11. “Security deposit” means any advance of money, other than a deposit for a rental application or a payment in advance of rent, that is intended primarily to secure performance under a ~~lease of commercial premises.~~ rental agreement.

Sec. 12. “Tenant” means a person who has the right to possess commercial premises pursuant to a rental agreement.

Sec. 13. The provisions of sections 2 to 24, inclusive, of this act apply only to the relationship between landlords and tenants of commercial premises.

Sec. 14. 1. A landlord or a landlord’s agent may not interrupt or cause the interruption of utility service paid for directly to the utility company by a tenant unless the interruption results from construction, bona fide repairs or an emergency.

2. A landlord may not remove:

(a) A door, window or attic hatchway cover;

(b) A lock, latch, hinge, hinge pin, doorknob or other mechanism connected to a door, window or attic hatchway cover; or

(c) Furniture, fixtures or appliances furnished by the landlord,

↪ from commercial premises unless the landlord removes the item for a bona fide repair or replacement. If a landlord removes any of the items

listed in this subsection for a bona fide repair or replacement, the repair or replacement must be promptly performed.

3. A landlord may not intentionally prevent a tenant from entering the commercial premises except by judicial process unless the exclusion results from:

- (a) Construction, bona fide repairs or an emergency;
- (b) Removing the contents of commercial premises abandoned by a tenant; or
- (c) Changing the door locks of a tenant who is delinquent in paying at least part of the rent.

4. If a landlord or a landlord's agent changes the door lock of commercial premises leased to a tenant who is delinquent in paying rent, the landlord or agent must place a written notice on the front door of the commercial premises stating the name and the address or telephone number of the person or company from which the new key may be obtained. The new key is required to be provided only during the regular business hours of the tenant and only if the tenant pays the delinquent rent.

5. If a landlord or a landlord's agent violates this section, the tenant may:

- (a) Recover possession of the commercial premises or terminate the ~~lease;~~ rental agreement; and
- (b) Recover from the landlord an amount equal to the sum of the tenant's actual damages, one month's rent or \$500, whichever is greater, reasonable attorney's fees and court costs, less any delinquent rents or other sums for which the tenant is liable to the landlord.

6. A ~~lease~~ rental agreement supersedes this section to the extent of any conflict.

Sec. 15. 1. If a landlord locks a tenant out of ~~leased~~ commercial premises that is subject to a rental agreement in violation of section 14 of this act, the tenant may recover possession of the commercial premises as provided by this section.

2. A tenant must file with the justice court of the township in which the commercial premises are located or with the district court of the county in which the commercial premises are located, whichever has jurisdiction over the matter, a verified complaint for reentry, specifying the facts of the alleged unlawful lockout by the landlord or the landlord's agent. The tenant must also state orally under oath to the court the facts of the alleged unlawful lockout.

3. If a tenant has complied with subsection 2 and if the court reasonably believes an unlawful lockout may have occurred, the court may issue, ex parte, a temporary writ of restitution that entitles the tenant to immediate and temporary possession of the commercial premises, pending a final hearing on the tenant's verified complaint for reentry.

4. A temporary writ of restitution must be served on the landlord or the landlord's agent in the same manner as a writ of restitution in a forcible detainer action. A sheriff or constable may use reasonable force in executing a temporary writ of restitution under this subsection.

5. A landlord is entitled to a hearing on a tenant's verified complaint for reentry. A temporary writ of restitution must notify the landlord of the right to a hearing. The hearing must be held not earlier than the first day and not later than the seventh day after the date the landlord requests a hearing.

6. If a landlord fails to request a hearing on a tenant's verified complaint for reentry before the eighth day after the date of service of the temporary writ of restitution on the landlord under subsection 4, a judgment for court costs may be rendered against the landlord.

7. A party may appeal from the court's judgment at the hearing on the verified complaint for reentry in the same manner as a party may appeal a judgment in an action for forcible detainer.

8. If a writ of restitution is issued, the writ supersedes a temporary writ of restitution.

9. If the landlord or the person on whom a writ of restitution is served fails to immediately comply with the writ or later disobeys the writ, the failure is grounds for contempt of court against the landlord or the person on whom the writ was served, under chapter 22 of NRS. If the writ is disobeyed, the tenant or the tenant's attorney may file in the court in which the reentry action is pending an affidavit stating the name of the person who has disobeyed the writ and describing the acts or omissions constituting the disobedience. On receipt of an affidavit, the court shall issue an order to show cause, directing the person to appear on a designated date and show cause why the person should not be adjudged in contempt of court. If the court finds, after considering the evidence at the hearing, that the person has directly or indirectly disobeyed the writ, the court may commit the person to jail without bail until the person purges himself or herself of the contempt in a manner and form as the court may direct. If the person disobeyed the writ before receiving the order to show cause but has complied with the writ after receiving the order, the court may find the person in contempt and punish the person under chapter 22 of NRS.

10. This section does not affect a tenant's right to pursue a separate cause of action under section 14 of this act.

11. If a tenant in bad faith files a sworn complaint for reentry resulting in a writ of restitution being served on the landlord or landlord's agent, the landlord may in a separate cause of action recover from the tenant an amount equal to actual damages, one month's rent or \$500, whichever is greater, reasonable attorney's fees, and costs of court, less any sums for which the landlord is liable to the tenant.

12. The fee for filing a verified complaint for reentry is the same as that for filing a civil action in the court in which the verified complaint is filed. The court may defer payment of the tenant's filing fees and service costs for the verified complaint for reentry and writ of restitution. Court costs may be waived only if the tenant files an affidavit under NRS 12.015.

13. This section does not affect the rights of a landlord or tenant in a forcible detainer, unlawful detainer or forcible entry and detainer action.

Sec. 16. 1. Except as otherwise provided in subsection 3, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:

(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the ~~conditions set forth in subparagraphs (1) and (2) are satisfied:~~

~~(1) The~~ landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

~~f (2) The landlord has taken reasonable steps to:~~

~~(I) Determine whether the tenant has subjected the abandoned personal property to a perfected lien or security interest; and~~

~~(II) If the landlord determines that the tenant has subjected the abandoned personal property to a perfected lien or security interest, notify the holder of the perfected lien or the security interest that the abandoned personal property has been left on the commercial premises.~~

~~→ The landlord shall be deemed to have taken the reasonable steps required by subparagraph (2) if the landlord has reviewed the results of a current search of the records in which a financing statement must be filed in order to perfect a lien or security interest pursuant to chapter 104 of NRS for a financing statement naming the tenant as the debtor of a debt secured by the abandoned personal property and, if such a financing statement is found, mailed to any secured party named on the financing statement at the address indicated on the financing statement, by certified mail, return receipt requested, a written notice stating that the abandoned personal property has been left on the premises.]~~

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. A tenant of commercial premises is presumed to have abandoned the premises if:

(a) Goods, equipment or other property, in an amount substantial enough to indicate a probable intent to abandon the commercial premises, is being or has been removed from the commercial premises; and

(b) The removal is not within the normal course of business of the tenant.

3. If a written agreement between a landlord and a ~~{secured party}~~ person who has ~~{a perfected lien on, or a perfected security}~~ an ownership interest in ~~{it}~~ any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the ~~{secured party}~~ person with respect to the removal and disposal of the abandoned personal property.

4. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

Sec. 17. 1. A landlord shall refund a security deposit to a tenant not later than 60 days after the date on which the tenant surrenders the commercial premises and provides notice to the landlord or the landlord's agent of the mailing address of the tenant pursuant to section 21 of this act.

2. A claim of a tenant to a security deposit to which the tenant is entitled takes priority over the claim of any creditor of the landlord, including a trustee in bankruptcy.

Sec. 18. 1. Before returning a security deposit, a landlord may deduct from the deposit damages and charges for which the tenant is legally liable under the ~~{lease}~~ rental agreement or damages and charges that result from a breach of the ~~{lease}~~ rental agreement.

2. A landlord may not retain any portion of a security deposit to cover normal wear and tear. For the purposes of this subsection, "normal wear and tear" means deterioration that results from the intended use of the commercial premises, including breakage or malfunction because of age or deteriorated condition, but the term does not include deterioration that results from negligence, carelessness, accident or abuse of the commercial premises, equipment, or chattels by the tenant or by a guest or invitee of the tenant.

3. If a landlord retains all or part of a security deposit under this section, the landlord shall give to the tenant the balance of the security deposit, if any, together with a written description and itemized list of all deductions. The landlord is not required to give the tenant a description and itemized list of deductions if:

(a) The tenant owes rent when the tenant surrenders possession of the commercial premises; and

(b) No controversy exists concerning the amount of rent owed.

Sec. 19. 1. *Except as otherwise provided in subsection 4, if an owner's interest in commercial premises is terminated by sale, assignment, death, appointment of a receiver, bankruptcy or otherwise, the new owner is liable with respect to the security deposit pursuant to sections 2 to 24, inclusive, of this act from the date title to the premises is acquired, regardless of whether an acknowledgment is given to the tenant under subsection 2.*

2. *Except as otherwise provided in subsection 1, a person who no longer owns an interest in the commercial premises remains liable for a security deposit received while the person was the owner until the new owner delivers to the tenant a signed statement acknowledging that the new owner has received and is responsible for the tenant's security deposit and specifying the exact dollar amount of the deposit.*

3. *The amount of a security deposit for which a new owner is liable pursuant to this section is the greater of:*

(a) The amount provided in the tenant's ~~lease~~ rental agreement; or

(b) The amount provided in an estoppel certificate prepared by the owner at the time the ~~lease~~ rental agreement was executed or prepared by the new owner at the time the commercial premises is transferred.

4. *Subsection 1 does not apply to a person who acquires title to the premises by foreclosure.*

Sec. 20. *A landlord shall keep accurate records of all security deposits.*

Sec. 21. 1. *A landlord is not obligated to return a security deposit to a tenant or give the tenant a written description of damages and charges until the tenant provides to the landlord in writing a mailing address to which the security deposit or written description are to be sent.*

2. *A tenant does not forfeit the right to a refund of a security deposit or the right to receive a description of damages and charges for failing to give a mailing address to the landlord.*

Sec. 22. 1. *A tenant may not withhold payment of any portion of the last month's rent on grounds that a security deposit is security for unpaid rent.*

2. *A tenant who violates this section is presumed to have acted in bad faith. A tenant who in bad faith violates this section is liable to the landlord for an amount equal to three times the rent wrongfully withheld and the landlord's reasonable attorney's fees in an action to recover the rent.*

Sec. 23. 1. *A landlord who in bad faith retains a security deposit in violation of sections 2 to 24, inclusive, of this act is liable for an amount equal to the sum of \$100, three times the portion of the deposit wrongfully withheld, and the tenant's reasonable attorney's fees incurred in an action to recover the deposit after the period prescribed for returning the deposit expires.*

2. A landlord who in bad faith does not provide a written description and itemized list of damages and charges in violation of sections 2 to 24, inclusive, of this act:

- (a) Forfeits the right to withhold any portion of the security deposit or to bring suit against the tenant for damages to the commercial premises; and
- (b) Is liable for the tenant's reasonable attorney's fees in an action to recover the deposit.

3. In an action brought by a tenant under sections 2 to 24, inclusive, of this act, the landlord has the burden of proving that the retention of any portion of a security deposit was reasonable.

4. Except as otherwise provided in subsection 1 of section 21 of this act, a landlord who fails to return a security deposit or to provide a written description and itemized list of deductions within 60 days after the date the tenant surrenders possession of the commercial premises is presumed to have acted in bad faith.

Sec. 24. 1. A landlord may not assess a charge, excluding a charge for rent or physical damage to the commercial premises, to a tenant unless the amount of the charge or the method by which the charge is to be computed is stated in the ~~lease,~~ rental agreement, an exhibit or attachment that is part of the ~~lease,~~ rental agreement or an amendment to the ~~lease,~~ rental agreement.

2. This section does not affect the right of a landlord to assess a charge or obtain a remedy allowed under a statute or common law.

Sec. 25. NRS 118.171 is hereby amended to read as follows:

118.171 As used in NRS 118.171 to ~~118.207,~~ 118.205, inclusive, unless the context otherwise requires:

1. ~~["Abandoned personal property" means any personal property which is left unattended on any commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has a perfected lien on, or perfected security interest in, the personal property within 14 days after the later of the date on which the landlord:~~

~~(a) Mailed, by certified mail, return receipt requested, notice of the landlord's intention to dispose of the personal property, as required by subparagraph (1) of paragraph (a) of subsection 1 of NRS 118.207; or~~

~~(b) Provided notice to a person who has a perfected lien on, or a perfected security interest in, the personal property that the personal property has been left on the premises, as required by subparagraph (2) of paragraph (a) of subsection 1 of NRS 118.207.~~

~~2.]~~ "Real property" includes an apartment, a dwelling, a mobile home that is owned by a landlord and located on property owned by the landlord and commercial premises.

~~3.]~~ 2. "Rental agreement" means an agreement to lease or sublease real property for a term less than life which provides for the periodic payment of rent.

~~{4.}~~ 3. “Tenant” means a person who has the right to possess real property pursuant to a rental agreement.

Sec. 26. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord’s agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➡ As used in this subsection, “day of service” means the day the landlord or the landlord’s agent personally delivers the notice to the tenant. If personal service was not so delivered, the “day of service” means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the “day of service” shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord’s agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or the landlord’s agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord’s agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord’s agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of the tenant’s right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction

over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be

conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS ~~118.207 or~~ 118A.460 **or section 16 of this act** for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

- (a) The tenant has vacated or been removed from the premises; and
 - (b) A copy of those charges has been requested by or provided to the tenant,
- ➡ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

- (a) Determine the costs, if any, claimed by the landlord pursuant to NRS ~~118.207 or~~ 118A.460 **or section 16 of this act** and any accumulating daily costs; and
- (b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Sec. 27. NRS 118.207 is hereby repealed.

TEXT OF REPEALED SECTION

118.207 Disposal of personal property abandoned by tenant on commercial premises; notice; procedure by landlord; releasing property to tenant; limitation on landlord's liability.

1. Except as otherwise provided in subsection 2, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:

(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the conditions set forth in subparagraphs (1) and (2) are satisfied:

(1) The landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

(2) The landlord has taken reasonable steps to:

(I) Determine whether the tenant has subjected the abandoned personal property to a perfected lien or security interest; and

(II) If the landlord determines that the tenant has subjected the abandoned personal property to a perfected lien or security interest, notify the holder of the perfected lien or the security interest that the abandoned personal property has been left on the premises.

➡ The landlord shall be deemed to have taken the reasonable steps required by subparagraph (2) if the landlord has reviewed the results of a current search of the records in which a financing statement must be filed in order to perfect a lien or security interest pursuant to chapter 104 of NRS for a financing statement naming the tenant as the debtor of a debt secured by the abandoned personal property and, if such a financing statement is found, mailed, to any secured party named on the financing statement at the address indicated on the financing statement, by certified mail, return receipt requested, a written notice stating that the abandoned personal property has been left on the premises.

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. If a written agreement between a landlord and a secured party who has a perfected lien on, or a perfected security interest in, any abandoned personal property of the tenant contains provisions which relate to the

removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the secured party with respect to the removal and disposal of the abandoned personal property.

3. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 429.

Bill read second time.

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

Amendment No. 431.

AN ACT relating to manufactured housing; requiring a landlord of a manufactured home park to pay certain costs associated with moving a tenant's manufactured home under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a landlord of a manufactured home park to pay certain costs associated with moving a tenant's manufactured home if the landlord closes or converts the park. (NRS 118B.130, 118B.177, 118B.180, 118B.183) ~~{Section 1 of this bill similarly requires a landlord of a manufactured home park to pay certain costs associated with moving a tenant's manufactured home if the tenant elects to move after a landlord raises cumulatively the rent on a manufactured home lot by 40 percent or more within 5 consecutive years. Section 1 also: (1) requires a tenant to provide written notice of his or her intention to move; and (2) gives the landlord the opportunity to reduce the rent before the landlord is required to pay such costs.~~

~~Existing law also authorizes a landlord to remove and dispose of a manufactured home and requires the landlord to pay to the tenant the fair market value of the manufactured home if the tenant chooses not to move the manufactured home under certain circumstances. (NRS 118B.130, 118B.177, 118B.180, 118B.183) Sections 1-5 of this bill require a landlord, under those circumstances, to pay to the tenant the fair market value of the manufactured home minus the reasonable cost of removing and disposing of the manufactured home or \$5,000, whichever is greater. Sections {1-5 also} 2-5 of this bill~~ require a landlord to pay costs associated with moving a tenant's manufactured home to a new location in this State or another state that is within 150 miles from the manufactured home park.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 118B.130 is hereby amended to read as follows:

118B.130 1. A landlord may not change:

(a) An existing park to a park for older persons pursuant to federal law unless the tenants who do not meet those restrictions and may lawfully be evicted are moved to other parks at the expense of the landlord; or

(b) The restriction of a park for older persons pursuant to federal law unless the tenants are given the option of remaining in their spaces or moving to other parks at the expense of the landlord.

2. A tenant who elects to move pursuant to a provision of subsection 1 shall give the landlord notice in writing of the tenant's election to move within 75 days after receiving notice of the change in restrictions in the park.

3. At the time of providing notice of the change in restrictions in the park, the landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within ~~{100}~~ 150 miles that have reported having vacant spaces.

4. If a landlord is required to move a tenant to another park pursuant to subsection 1, the landlord shall pay:

(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location in this State or another state within ~~{100}~~ 150 miles from the manufactured home park; or

(b) If the new location is more than ~~{100}~~ 150 miles from the manufactured home park, the cost of moving the manufactured home for the first ~~{100}~~ 150 miles,

➤ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his or her manufactured home and its appurtenances in the new lot or park.

5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his or her manufactured home, the landlord shall pay the tenant \$250 as reimbursement for the shed. Each tenant may receive only one payment of \$250 even if more than one shed is owned by the tenant.

6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within ~~{100}~~ 150 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home ~~less the reasonable cost of removing and disposing of the manufactured home or \$5,000, whichever is greater.~~

7. A landlord of a park in which restrictions have been or are being changed shall give written notice of the change to each:

- (a) Tenant of the park who does not meet the new restrictions; and
- (b) Prospective tenant before the commencement of the tenancy.

8. For the purposes of this section, the fair market value of a manufactured home must be determined as follows:

(a) A dealer licensed pursuant to chapter 489 of NRS who is a certified appraiser and who is selected jointly by the landlord or his or her agent and the tenant shall make the determination.

(b) If there are insufficient dealers licensed pursuant to chapter 489 of NRS who are certified appraisers available for the purposes of paragraph (a), a person who possesses the qualifications pursuant to the Appraiser Qualifications for Manufactured Homes Classified as Personal Property as set forth in section 8-3 of Valuation Analysis for Single Family One- to Four-Unit Dwellings, HUD Directive Number 4150.2 CHG-1, of the United States Department of Housing and Urban Development, and who is selected jointly by the landlord or his or her agent and the tenant shall make the determination.

(c) If there are insufficient persons available for the purposes of paragraphs (a) and (b) or if the landlord or his or her agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his or her agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to chapter 489 of NRS or a certified appraiser who shall make the determination.

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the cost of removing and disposing of a manufactured home pursuant to subsection 6.

Sec. 3. NRS 118B.177 is hereby amended to read as follows:

118B.177 1. If a landlord closes a manufactured home park, or if a landlord is forced to close a manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park permanently for health or safety reasons, the landlord shall pay the amounts required by subsections 3, 4 and 5.

2. At the time of providing notice of the closure of the park, a landlord shall provide to each tenant:

- (a) The address and telephone number of the Division;
- (b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and
- (c) Any list published by the Division setting forth the names of mobile home parks within ~~1400~~ 150 miles that have reported having vacant spaces.

3. If the tenant chooses to move the manufactured home:

(a) The tenant shall, within 75 days after receiving notice of the closure, notify the landlord in writing of the tenant's election to move the manufactured home; and

(b) The landlord shall pay to the tenant:

(1) The cost of moving each tenant's manufactured home and its appurtenances to a new location in this State or another state within ~~{100}~~ 150 miles from the manufactured home park; or

(2) If the new location is more than ~~{100}~~ 150 miles from the manufactured home park, the cost of moving the manufactured home for the first ~~{100}~~ 150 miles,

➔ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling the manufactured home and its appurtenances in the new lot or park.

4. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his or her manufactured home, the landlord shall pay the tenant \$250 as reimbursement for the shed. Each tenant may receive only one payment of \$250 even if more than one shed is owned by the tenant.

5. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within ~~{100}~~ 150 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home ~~less the reasonable cost of removing and disposing of the manufactured home or \$5,000, whichever is greater.~~

6. Written notice of any closure must be served timely on each:

(a) Tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before the tenant is required to move his or her manufactured home from the lot.

(b) Prospective tenant by:

(1) Handing each prospective tenant or his or her agent a copy of the written notice; and

(2) Maintaining a copy of the written notice at the entrance of the manufactured home park.

7. For the purposes of this section, the fair market value of a manufactured home must be determined as follows:

(a) A dealer licensed pursuant to chapter 489 of NRS who is a certified appraiser and who is selected jointly by the landlord or his or her agent and the tenant shall make the determination.

(b) If there are insufficient dealers licensed pursuant to chapter 489 of NRS who are certified appraisers for the purposes of paragraph (a), a person who possesses the qualifications pursuant to the Appraiser Qualifications for Manufactured Homes Classified as Personal Property as set forth in section 8-3 of Valuation Analysis for Single Family One- to Four-Unit Dwellings, HUD Directive Number 4150.2 CHG-1, of the United States Department of Housing and Urban Development, and who is selected jointly by the landlord or his or her agent and the tenant shall make the determination.

(c) If there are insufficient persons available for the purposes of paragraphs (a) and (b) or if the landlord or his or her agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his or her agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to chapter 489 of NRS or a certified appraiser who shall make the determination.

8. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the cost of removing and disposing of a manufactured home pursuant to subsection 5.

9. A landlord shall not increase the rent of a tenant after notice is served on the tenant as required by subsection 6.

10. If a landlord begins the process of closing a manufactured home park, the landlord shall comply with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.

11. As used in this section, "timely" means not later than 3 days after the landlord learns of a closure.

Sec. 4. NRS 118B.180 is hereby amended to read as follows:

118B.180 1. A landlord may convert an existing manufactured home park into individual manufactured home lots for sale to manufactured home owners if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to the Division and each tenant within 5 days after the landlord files his or her application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord offers, in writing, to sell the lot to the tenant at the same price the lot will be offered to the public and holds that offer open for at least 90 days or until the landlord receives a written rejection of the offer from the tenant, whichever occurs earlier;

(c) The landlord does not sell the lot to a person other than the tenant for 90 days after the termination of the offer required pursuant to paragraph (b) at a price or on terms that are more favorable than the price or terms offered to the tenant;

(d) If a tenant does not exercise his or her option to purchase the lot pursuant to paragraph (b), the landlord pays:

(1) The cost of moving the tenant's manufactured home and its appurtenances to a comparable location in this State or another state within ~~{100}~~ 150 miles from the manufactured home park; or

(2) If the new location is more than ~~{100}~~ 150 miles from the manufactured home park, the cost of moving the manufactured home for the first ~~{100}~~ 150 miles,

➡ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his or her manufactured home and its appurtenances in the new lot or park;

(e) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, notice in writing is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before the tenant is required to move his or her manufactured home from the lot; and

(f) The landlord complies with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.

3. At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within ~~{100}~~ 150 miles that have reported having vacant spaces.

4. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his or her manufactured home, the landlord shall pay the tenant \$250 as reimbursement for the shed. Each tenant may receive only one payment of \$250 even if more than one shed is owned by the tenant.

5. If a tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within ~~{100}~~ 150 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home ~~less the reasonable cost of removing and disposing of the manufactured home or \$5,000, whichever is greater.~~

6. Notice sent pursuant to paragraph (a) of subsection 2 or an offer to sell a manufactured home lot to a tenant required pursuant to paragraph (b) of subsection 2 does not constitute notice of termination of the tenancy.

7. Upon the sale of a manufactured home lot and a manufactured home which is situated on that lot, the landlord shall indicate what portion of the purchase price is for the manufactured home lot and what portion is for the manufactured home.

8. For the purposes of this section, the fair market value of a manufactured home must be determined as follows:

(a) A dealer licensed pursuant to chapter 489 of NRS who is a certified appraiser and who is selected jointly by the landlord or his or her agent and the tenant shall make the determination.

(b) If there are insufficient dealers licensed pursuant to chapter 489 of NRS who are certified appraisers available for the purposes of paragraph (a), a person who possesses the qualifications pursuant to the Appraiser Qualifications for Manufactured Homes Classified as Personal Property as set forth in section 8-3 of Valuation Analysis for Single Family One- to Four-Unit Dwellings, HUD Directive Number 4150.2 CHG-1, of the United States Department of Housing and Urban Development, and who is selected jointly by the landlord or his or her agent and the tenant shall make the determination.

(c) If there are insufficient persons available for the purposes of paragraphs (a) and (b) or if the landlord or his or her agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his or her agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to chapter 489 of NRS or a certified appraiser who shall make the determination.

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the cost of removing and disposing of a manufactured home pursuant to subsection 5.

10. The provisions of this section do not apply to a corporate cooperative park.

Sec. 5. NRS 118B.183 is hereby amended to read as follows:

118B.183 1. A landlord may convert an existing manufactured home park to any other use of the land if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to the Division and each tenant within 5 days after the landlord files his or her application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord pays the amounts required by subsections 4, 5 and 6;

(c) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, written notice is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before the tenant is required to move his or her manufactured home from the lot; and

(d) The landlord complies with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.

3. At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within ~~{100}~~ 150 miles that have reported having vacant spaces.

4. If the tenant chooses to move the manufactured home:

(a) The tenant shall, within 75 days after receiving notice of the conversion, notify the landlord in writing of the tenant's election to move the manufactured home; and

(b) The landlord shall pay to the tenant:

(1) The cost of moving the tenant's manufactured home and its appurtenances to a new location in this State or another state within ~~{100}~~ 150 miles from the manufactured home park; or

(2) If the new location is more than ~~{100}~~ 150 miles from the manufactured home park, the cost of moving the manufactured home for the first ~~{100}~~ 150 miles,

➤ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his or her manufactured home and its appurtenances in the new lot or park.

5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his or her manufactured home, the landlord shall pay the tenant \$250 as reimbursement for the shed. Each tenant may receive only one payment of \$250 even if more than one shed is owned by the tenant.

6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within ~~{100}~~ 150 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home ~~less the reasonable cost of removing and disposing of the manufactured home or \$5,000, whichever is greater.~~

7. A landlord shall not increase the rent of any tenant:

(a) For 180 days before filing an application for a change in land use, permit or variance affecting the manufactured home park; or

(b) At any time after filing an application for a change in land use, permit or variance affecting the manufactured home park unless:

(1) The landlord withdraws the application or the appropriate local zoning board, planning commission or governing body denies the application; and

(2) The landlord continues to operate the manufactured home park after the withdrawal or denial.

8. For the purposes of this section, the fair market value of a manufactured home must be determined as follows:

(a) A dealer licensed pursuant to chapter 489 of NRS who is a certified appraiser and who is selected jointly by the landlord or his or her agent and the tenant shall make the determination.

(b) If there are insufficient dealers licensed pursuant to chapter 489 of NRS who are certified appraisers available for the purposes of paragraph (a), a person who possesses the qualifications pursuant to the Appraiser Qualifications for Manufactured Homes Classified as Personal Property as set forth in section 8-3 of Valuation Analysis for Single Family One- to Four-Unit Dwellings, HUD Directive Number 4150.2 CHG-1, of the United States Department of Housing and Urban Development, and who is selected jointly by the landlord or his or her agent and the tenant shall make the determination.

(c) If there are insufficient persons available for the purposes of paragraphs (a) and (b) or if the landlord or his or her agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his or her agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to chapter 489 of NRS or a certified appraiser who shall make the determination.

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the cost of removing and disposing of a manufactured home pursuant to subsection 6.

10. The provisions of this section do not apply to a corporate cooperative park.

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

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

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 441.

Bill read second time.

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

Amendment No. 432.

AN ACT relating to contractors; ~~providing a classification of licensing for certain persons who install and maintain thermal system insulation; requiring such persons to be licensed in that classification;~~ requiring the State Contractors' Board to establish an advisory committee relating to ~~this~~ the classification of licensing for certain persons who install and maintain building shell insulation or thermal system insulation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~1. The State Contractors' Board is required under existing law to adopt regulations to effect the classification and subclassification of contractors.~~

~~(NRS 624.215-624.220) Section 1 of this act requires the Board to adopt by regulation a classification of licensing for persons who install and maintain thermal system insulation. Section 1 also requires such persons to be licensed in that classification. Thus, those persons will be regulated by the Board and be subject to all the requirements governing licensed contractors, including disciplinary action.]~~

Under existing law, the State Contractors' Board is authorized to establish advisory committees in topical areas, as the Board deems necessary. (NRS 624.100) **Section 2** of this bill requires that Board to establish an advisory committee to make recommendations concerning persons who ~~are licensed under the new classification.]~~ **install and maintain building shell insulation or thermal system insulation.**

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. The Board shall adopt by regulation a classification of licensing for persons who install or maintain thermal system insulation in heating, ventilating, cooling, plumbing and refrigeration systems. A person who engages in such installation or maintenance must be licensed in this classification and may not be required to be licensed in any other classification.**~~

~~**2. As used in this section, "thermal system insulation" means a product that is used in a heating, ventilating, cooling, plumbing or refrigeration system to insulate any hot or cold surface, including, without limitation, a pipe, duct, valve, boiler, flue or tank, or equipment on or in a building.]**~~
(Deleted by amendment.)

Sec. 2. NRS 624.100 is hereby amended to read as follows:

624.100 1. The Board may appoint such committees and make such reasonable bylaws, rules of procedure and regulations as are necessary to carry out the provisions of this chapter.

2. ~~[The]~~ **Except as otherwise provided in subsection 3, the** Board may establish advisory committees composed of its members or employees, homeowners, contractors or other qualified persons to provide assistance with respect to fraud in construction, or in any other area that the Board considers necessary.

3. **The Board shall establish an advisory committee to make recommendations to the Board concerning the classification of licensure of persons ~~having the classification of licensure for the installation and maintenance of~~ who install or maintain building shell insulation or thermal system insulation, as set forth in section 1 of this act, including, without limitation, recommendations relating to training and continuing education.**

4. If ~~{the Board establishes}~~ an advisory committee ~~{,}~~ **is established**, the Board shall:

(a) Select five members for the committee from a list of volunteers approved by the Board; and

(b) Adopt rules of procedure for informal conferences of the committee.

~~{4.}~~ 5. If ~~{the Board establishes}~~ an advisory committee ~~{,}~~ **is established**, the members:

(a) Serve at the pleasure of the Board.

(b) Serve without compensation, but must be reimbursed for travel expenses necessarily incurred in the performance of their duties. The rate must not exceed the rate provided for state officers and employees generally.

(c) Shall provide a written summary report to the Board, within 15 days after the final informal conference of the committee, that includes recommendations with respect to actions that are necessary to reduce and prevent the occurrence of fraud in construction, or on such other issues as requested by the Board.

~~{5.}~~ 6. The Board is not bound by any recommendation made by an advisory committee.

7. As used in this section:

(a) "Building shell insulation" means a product that is used as part of the building which insulates a boundary between indoor and outdoor space or conditioned and unconditioned space, including, without limitation, walls, ceilings or floors.

(b) "Thermal system insulation" means a product that is used in a heating, ventilating, cooling, plumbing or refrigeration system to insulate any hot or cold surface, including, without limitation, a pipe, duct, valve, boiler, flue or tank, or equipment on or in a building.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 503.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 315.

AN ACT relating to wildlife; imposing certain conservation fees; requiring a person who is not the holder of an annual hunting, trapping, fishing or combined hunting and fishing license to pay an annual conservation fee to access a wildlife management area; revising certain provisions governing the use of money in the Wildlife Obligated Reserve Account; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, in addition to any fee charged and collected for an annual hunting, trapping, fishing or combined hunting and fishing license,

a \$3 habitat conservation fee must be paid. The proceeds from this fee must be deposited in the Wildlife Obligated Reserve Account and must be used for wildlife habitat rehabilitation and restoration. (NRS 502.242) **Section 2** of this bill redesignates the habitat conservation fee as the conservation fee and sets the conservation fee at \$5 for residents and \$10 for nonresidents. In addition, **section 2** imposes an annual conservation fee of \$5 for residents and \$10 for nonresidents on any person who wishes to access a wildlife management area but is not the holder of a hunting, trapping, fishing or combined hunting and fishing license. **Section 2** also provides that, each year, not more than ~~25~~ **18** percent of the money ~~in~~ **credited to** the Wildlife Obligated Reserve Account **from any revenue received from those conservation fees** may be used to monitor wildlife and its habitat for the purposes of wildlife habitat rehabilitation and restoration. **Section 3** of this bill revises the authority of the Board of Wildlife Commissioners concerning the use of a wildlife management area by a person who pays the annual conservation fee.

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

Section 1. NRS 502.066 is hereby amended to read as follows:

502.066 1. The Department shall issue an apprentice hunting license to a person who:

- (a) Is 12 years of age or older;
- (b) Has not previously been issued a hunting license by the Department, another state, an agency of a Canadian province or an agency of any other foreign country, including, without limitation, an apprentice hunting license; and
- (c) Except as otherwise provided in subsection 5, is otherwise qualified to obtain a hunting license in this State.

2. Except as otherwise provided in this subsection, the Department shall not impose a fee for the issuance of an apprentice hunting license. For each apprentice hunting license issued, the applicant or the mentor hunter for the applicant shall pay:

- (a) Any service fee required by a license agent pursuant to NRS 502.040;
- (b) The ~~habitat~~ conservation fee required by NRS 502.242; and
- (c) Any transaction fee that is set forth in a contract of this State with a third-party electronic services provider for each online transaction that is conducted with the Department.

3. An apprentice hunting license authorizes the apprentice hunter to hunt in this State as provided in this section.

4. It is unlawful for an apprentice hunter to hunt in this State unless a mentor hunter accompanies and directly supervises the apprentice hunter at all times during a hunt. During the hunt, the mentor hunter shall ensure that:

- (a) The apprentice hunter safely handles and operates the firearm or weapon used by the apprentice hunter; and

(b) The apprentice hunter complies with all applicable laws and regulations concerning hunting and the use of firearms.

5. A person is not required to complete a course of instruction in the responsibilities of hunters as provided in NRS 502.340 to obtain an apprentice hunting license.

6. The issuance of an apprentice hunting license does not:

(a) Authorize the apprentice hunter to obtain any other hunting license;
 (b) Authorize the apprentice hunter to hunt any animal for which a tag is required pursuant to NRS 502.130; or

(c) Exempt the apprentice hunter from any requirement of this title.

7. The Commission may adopt regulations to carry out the provisions of this section.

8. As used in this section:

(a) "Accompanies and directly supervises" means maintains close visual and verbal contact with, provides adequate direction to and maintains the ability readily to assume control of any firearm or weapon from an apprentice hunter.

(b) "Apprentice hunter" means a person who obtains an apprentice hunting license pursuant to this section.

(c) "Mentor hunter" means a person 18 years of age or older who holds a hunting license issued in this State and who accompanies and directly supervises an apprentice hunter. The term does not include a person who holds an apprentice hunting license pursuant to this section.

Sec. 2. NRS 502.242 is hereby amended to read as follows:

502.242 1. In addition to any fee charged and collected for an annual hunting, trapping, fishing or combined hunting and fishing license pursuant to NRS 502.240, a ~~habitat~~ conservation fee ~~of \$3~~ must be paid ~~1~~ **in the amount of \$5 for a resident and \$10 for a nonresident.**

2. ***In order to access a wildlife management area, a person who is not the holder of an annual hunting, trapping, fishing or combined hunting and fishing license must pay an annual conservation fee in the amount of \$5 for a resident and \$10 for a nonresident.***

3. The Wildlife Obligated Reserve Account is hereby created in the State General Fund. Revenue from the ~~habitat~~ conservation fee must be accounted for separately, deposited with the State Treasurer for credit to the Wildlife Obligated Reserve Account and, except as otherwise provided in ***this subsection and*** NRS 502.294 and 502.310, used by the Department for the purposes of wildlife habitat rehabilitation and restoration. ***Each year, not more than ~~25~~ 18 percent of the money ~~from~~ credited to the Wildlife Obligated Reserve Account from any revenue received pursuant to subsections 1 and 2 may be used to monitor wildlife and its habitat for those purposes.*** The interest and income earned on the money in the Wildlife Obligated Reserve Account, after deducting any applicable charges, must be credited to the Account.

~~{3.}~~ 4. The money in the Wildlife Obligated Reserve Account remains in the Account and does not revert to the State General Fund at the end of any fiscal year.

Sec. 3. NRS 504.143 is hereby amended to read as follows:

504.143 1. To effectuate a coordinated and balanced program resulting in the maximum revival of wildlife in the State and in the maximum recreational advantages to the people of the State, the Commission has created and maintains state-owned wildlife management areas, and, in cooperation with the United States Fish and Wildlife Service, the Department of Interior and other federal agencies, has created and maintains other cooperative wildlife management areas.

2. ~~{The}~~ ***Except as otherwise provided in NRS 502.242, the*** Commission may permit hunting, fishing or trapping on or within, or access to, occupancy and use of, areas so created and maintained.

3. The Commission may by regulation:

(a) Establish, extend, shorten or abolish open seasons and closed seasons within such areas.

(b) Establish, change or abolish bag and creel limits and possession limits in such areas.

(c) Prescribe the manner and the means of taking wildlife in such areas.

(d) Establish, change or abolish restrictions in such areas based upon sex, maturity or other physical distinctions.

(e) Prescribe the manner of using such areas for a person who pays the annual fee to access such areas pursuant to NRS 502.242.

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

Assemblywoman Carlton moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Carlton moved that upon return from the printer, Assembly Bill No. 503 be rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 508.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 319.

AN ACT relating to motor vehicles; removing the exemption of mopeds from certain registration requirements; requiring a fee for the registration of mopeds; requiring drivers and passengers of mopeds to wear protective headgear; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law exempts mopeds from the requirement that every owner of a motor vehicle, trailer or semitrailer intended to be operated upon any highway in this State register the motor vehicle, trailer or semitrailer with the Department of Motor Vehicles. (NRS 482.205, 482.210) **Section 2** of this bill removes the exemption of mopeds from these registration requirements, thereby requiring a moped to be registered. **Section 4** of this bill requires the Department to issue a license plate upon the registration of a moped. **Section 11** of this bill requires that every moped be registered with the Department for a fee of \$33. A person who does not register his or her moped is guilty of a misdemeanor. (NRS 482.555)

Section 14 of this bill requires drivers and passengers of mopeds to wear protective headgear securely fastened on the head which meets certain standards adopted by the Department. A driver or passenger of a moped who does not wear such protective headgear is guilty of a misdemeanor. (NRS 486.381)

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

Section 1. NRS 482.087 is hereby amended to read as follows:

482.087 "Passenger car" means a motor vehicle designed for carrying 10 persons or less, except a motorcycle or ~~motor-driven cycle.~~ **a moped.**

Sec. 2. NRS 482.210 is hereby amended to read as follows:

482.210 1. The provisions of this chapter requiring the registration of certain vehicles do not apply to:

- (a) Special mobile equipment.
- (b) Implements of husbandry temporarily drawn, moved or otherwise propelled upon the highways.
- (c) Any mobile home or commercial coach subject to the provisions of chapter 489 of NRS.
- (d) Electric bicycles.
- (e) Golf carts which are:
 - (1) Traveling upon highways properly designated by the appropriate city or county as permissible for the operation of golf carts; and
 - (2) Operating pursuant to a permit issued pursuant to this chapter.
- (f) ~~Mopeds.~~
- (g) Towable tools or equipment as defined in NRS 484D.055.
- ~~(h)~~ (g) Any motorized conveyance for a wheelchair, whose operator is a person with a disability who is unable to walk about.

2. For the purposes of this section, "motorized conveyance for a wheelchair" means a vehicle which:

- (a) Can carry a wheelchair;
- (b) Is propelled by an engine which produces not more than 3 gross brake horsepower, has a displacement of not more than 50 cubic centimeters or produces not more than 2250 watts final output;

- (c) Is designed to travel on not more than three wheels; and
- (d) Can reach a speed of not more than 30 miles per hour on a flat surface with not more than a grade of 1 percent in any direction.

➡ The term does not include a tractor.

Sec. 3. NRS 482.255 is hereby amended to read as follows:

482.255 1. Upon receipt of a certificate of registration, the owner shall place it or a legible copy in the vehicle for which it is issued and keep it in the vehicle. If the vehicle is a motorcycle, **moped**, trailer or semitrailer, the owner shall carry the certificate in the tool bag or other convenient receptacle attached to the vehicle.

2. The owner or operator of a motor vehicle shall, upon demand, surrender the certificate of registration or the copy for examination to any peace officer, including a constable, or a justice of the peace or deputy of the Department.

3. No person charged with violating this section may be convicted if the person produces in court a certificate of registration which was previously issued to him or her and was valid at the time of the demand.

Sec. 4. NRS 482.265 is hereby amended to read as follows:

482.265 1. The Department shall furnish to every owner whose vehicle is registered two license plates for a motor vehicle other than a motorcycle **or moped** and one license plate for all other vehicles required to be registered hereunder. Upon renewal of registration, the Department may issue one or more license plate stickers, tabs or other suitable devices in lieu of new license plates.

2. The Director shall have the authority to require the return to the Department of all number plates upon termination of the lawful use thereof by the owner under this chapter.

3. Except as otherwise specifically provided by statute, for the issuance of each special license plate authorized pursuant to this chapter:

(a) The fee to be received by the Department for the initial issuance of the special license plate is \$35, exclusive of any additional fee which may be added to generate funds for a particular cause or charitable organization;

(b) The fee to be received by the Department for the renewal of the special license plate is \$10, exclusive of any additional fee which may be added to generate financial support for a particular cause or charitable organization; and

(c) The Department shall not design, prepare or issue a special license plate unless, within 4 years after the date on which the measure authorizing the issuance becomes effective, it receives at least 250 applications for the issuance of that plate.

Sec. 5. NRS 482.272 is hereby amended to read as follows:

482.272 Each license plate for a motorcycle **or moped** may contain up to six characters, including numbers and letters. Only one plate may be issued for a motorcycle ~~or~~ **or moped**.

Sec. 6. NRS 482.275 is hereby amended to read as follows:

482.275 1. The license plates for a motor vehicle other than a motorcycle, **moped** or motor vehicle being transported by a licensed vehicle transporter must be attached thereto, one in the rear and, except as otherwise provided in subsection 2, one in the front. The license plate issued for all other vehicles required to be registered must be attached to the rear of the vehicle. The license plates must be so displayed during the current calendar year or registration period.

2. If the motor vehicle was not manufactured to include a bracket, device or other contrivance to display and secure a front license plate, and if the manufacturer of the motor vehicle provided no other means or method by which a front license plate may be displayed upon and secured to the motor vehicle:

- (a) One license plate must be attached to the motor vehicle in the rear; and
- (b) The other license plate may, at the option of the owner of the vehicle, be attached to the motor vehicle in the front.

3. The provisions of subsection 2 do not relieve the Department of the duty to issue a set of two license plates as otherwise required pursuant to NRS 482.265 or other applicable law and do not entitle the owner of a motor vehicle to pay a reduced tax or fee in connection with the registration or transfer of the motor vehicle. If the owner of a motor vehicle, in accordance with the provisions of subsection 2, exercises the option to attach a license plate only to the rear of the motor vehicle, the owner shall:

- (a) Retain the other license plate; and
- (b) Insofar as it may be practicable, return or surrender both plates to the Department as a set when required by law to do so.

4. Every license plate must at all times be securely fastened to the vehicle to which it is assigned so as to prevent the plate from swinging and at a height not less than 12 inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible, and must be maintained free from foreign materials and in a condition to be clearly legible.

5. Any license plate which is issued to a vehicle transporter or a dealer, rebuilder or manufacturer may be attached to a vehicle owned or controlled by that person by a secure means. No license plate may be displayed loosely in the window or by any other unsecured method in any motor vehicle.

Sec. 7. NRS 482.3667 is hereby amended to read as follows:

482.3667 1. The Department shall establish, design and otherwise prepare for issue personalized prestige license plates and shall establish all necessary procedures not inconsistent with this section for the application and issuance of such license plates.

2. The Department shall issue personalized prestige license plates, upon payment of the prescribed fee, to any person who otherwise complies with the laws relating to the registration and licensing of motor vehicles or trailers for use on private passenger cars, motorcycles, **mopeds**, trucks or trailers.

3. Personalized prestige license plates are valid for 12 months and are renewable upon expiration. These plates may be transferred from one vehicle or trailer to another if the transfer and registration fees are paid as set out in this chapter.

4. In case of any conflict, the person who first made application for personalized prestige license plates and has continuously renewed them by payment of the required fee has priority.

5. The Department may limit by regulation the number of letters and numbers used and prohibit the use of inappropriate letters or combinations of letters and numbers.

6. The Department shall not assign to any person not holding the relevant office any letters and numbers denoting that the holder holds a public office.

Sec. 8. NRS 482.3824 is hereby amended to read as follows:

482.3824 1. Except as otherwise provided in NRS 482.38279, with respect to any special license plate that is issued pursuant to NRS 482.3667 to 482.3823, inclusive, and for which additional fees are imposed for the issuance of the special license plate to generate financial support for a charitable organization:

(a) The Director shall, at the request of the charitable organization that is benefited by the particular special license plate:

(1) Order the design and preparation of souvenir license plates, the design of which must be substantially similar to the particular special license plate; and

(2) Issue such souvenir license plates, for a fee established pursuant to NRS 482.3825, only to the charitable organization that is benefited by the particular special license plate. The charitable organization may resell such souvenir license plates at a price determined by the charitable organization.

(b) The Department may, except as otherwise provided in this paragraph and after the particular special license plate is approved for issuance, issue the special license plate for a trailer, motorcycle, **moped** or other type of vehicle that is not a passenger car or light commercial vehicle, excluding vehicles required to be registered with the Department pursuant to NRS 706.801 to 706.861, inclusive, upon application by a person who is entitled to license plates pursuant to NRS 482.265 or 482.272 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter or chapter 486 of NRS. The Department may not issue a special license plate for such other types of vehicles if the Department determines that the design or manufacture of the plate for those other types of vehicles would not be feasible. In addition, if the Department incurs additional costs to manufacture a special license plate for such other types of vehicles, including, without limitation, costs associated with the purchase, manufacture or modification of dies or other equipment necessary to manufacture the special license plate for such other types of vehicles, those additional costs must be paid from private sources without any expense to the State of Nevada.

2. If, as authorized pursuant to paragraph (b) of subsection 1, the Department issues a special license plate for a trailer, motorcycle, **moped** or other type of vehicle that is not a passenger car or light commercial vehicle, the Department shall charge and collect for the issuance and renewal of such a plate the same fees that the Department would charge and collect if the other type of vehicle was a passenger car or light commercial vehicle. As used in this subsection, “fees” does not include any applicable registration or license fees or governmental services taxes.

3. As used in this section:

(a) “Additional fees” has the meaning ascribed to it in NRS 482.38273.

(b) “Charitable organization” means a particular cause, charity or other entity that receives money from the imposition of additional fees in connection with the issuance of a special license plate pursuant to NRS 482.3667 to 482.3823, inclusive. The term includes the successor, if any, of a charitable organization.

Sec. 9. NRS 482.384 is hereby amended to read as follows:

482.384 1. Upon the application of a person with a permanent disability, the Department may issue special license plates for a vehicle, including a motorcycle ~~or~~ **or moped**, registered by the applicant pursuant to this chapter. The application must include a statement from a licensed physician certifying that the applicant is a person with a permanent disability. The issuance of a special license plate to a person with a permanent disability pursuant to this subsection does not preclude the issuance to such a person of a special parking placard for a vehicle other than a motorcycle **or moped** or a special parking sticker for a motorcycle **or moped** pursuant to subsection 6.

2. Every year after the initial issuance of special license plates to a person with a permanent disability, the Department shall require the person to renew the special license plates in accordance with the procedures for renewal of registration pursuant to this chapter. The Department shall not require a person with a permanent disability to include with the application for renewal a statement from a licensed physician certifying that the person is a person with a permanent disability.

3. Upon the application of an organization which provides transportation for a person with a permanent disability, disability of moderate duration or temporary disability, the Department may issue special license plates for a vehicle registered by the organization pursuant to this chapter, or the Department may issue special parking placards to the organization pursuant to this section to be used on vehicles providing transportation to such persons. The application must include a statement from the organization certifying that:

(a) The vehicle for which the special license plates are issued is used primarily to transport persons with permanent disabilities, disabilities of moderate duration or temporary disabilities; or

(b) The organization which is issued the special parking placards will only use such placards on vehicles that actually transport persons with permanent disabilities, disabilities of moderate duration or temporary disabilities.

4. The Department may charge a fee for special license plates issued pursuant to this section not to exceed the fee charged for the issuance of license plates for the same class of vehicle.

5. Special license plates issued pursuant to this section must display the international symbol of access in a color which contrasts with the background and is the same size as the numerals and letters on the plate.

6. Upon the application of a person with a permanent disability or disability of moderate duration, the Department may issue:

(a) A special parking placard for a vehicle other than a motorcycle ~~or~~ **or moped**. Upon request, the Department may issue one additional placard to an applicant to whom special license plates have not been issued pursuant to this section.

(b) A special parking sticker for a motorcycle ~~or~~ **or moped**.

➡ The application must include a statement from a licensed physician certifying that the applicant is a person with a permanent disability or disability of moderate duration.

7. A special parking placard issued pursuant to subsection 6 must:

(a) Have inscribed on it the international symbol of access which is at least 3 inches in height, is centered on the placard and is white on a blue background;

(b) Have an identification number and date of expiration of:

(1) If the special parking placard is issued to a person with a permanent disability, 10 years after the initial date of issuance; or

(2) If the special parking placard is issued to a person with a disability of moderate duration, 2 years after the initial date of issuance;

(c) Have placed or inscribed on it the seal or other identification of the Department; and

(d) Have a form of attachment which enables a person using the placard to display the placard from the rearview mirror of the vehicle.

8. A special parking sticker issued pursuant to subsection 6 must:

(a) Have inscribed on it the international symbol of access which complies with any applicable federal standards, is centered on the sticker and is white on a blue background;

(b) Have an identification number and a date of expiration of:

(1) If the special parking sticker is issued to a person with a permanent disability, 10 years after the initial date of issuance; or

(2) If the special parking sticker is issued to a person with a disability of moderate duration, 2 years after the initial date of issuance; and

(c) Have placed or inscribed on it the seal or other identification of the Department.

9. Before the date of expiration of a special parking placard or special parking sticker issued to a person with a permanent disability or disability of

moderate duration, the person shall renew the special parking placard or special parking sticker. If the applicant for renewal is a person with a disability of moderate duration, the applicant must include with the application for renewal a statement from a licensed physician certifying that the applicant is a person with a disability which limits or impairs the ability to walk, and that such disability, although not irreversible, is estimated to last longer than 6 months. A person with a permanent disability is not required to submit evidence of a continuing disability with the application for renewal.

10. The Department, or a city or county, may issue, and charge a reasonable fee for, a temporary parking placard for a vehicle other than a motorcycle **or moped** or a temporary parking sticker for a motorcycle **or moped** upon the application of a person with a temporary disability. Upon request, the Department, city or county may issue one additional temporary parking placard to an applicant. The application must include a certificate from a licensed physician indicating:

- (a) That the applicant has a temporary disability; and
- (b) The estimated period of the disability.

11. A temporary parking placard issued pursuant to subsection 10 must:

- (a) Have inscribed on it the international symbol of access which is at least 3 inches in height, is centered on the placard and is white on a red background;
- (b) Have an identification number and a date of expiration; and
- (c) Have a form of attachment which enables a person using the placard to display the placard from the rearview mirror of the vehicle.

12. A temporary parking sticker issued pursuant to subsection 10 must:

- (a) Have inscribed on it the international symbol of access which is at least 3 inches in height, is centered on the sticker and is white on a red background; and
- (b) Have an identification number and a date of expiration.

13. A temporary parking placard or temporary parking sticker is valid only for the period for which a physician has certified the disability, but in no case longer than 6 months. If the temporary disability continues after the period for which the physician has certified the disability, the person with the temporary disability must renew the temporary parking placard or temporary parking sticker before the temporary parking placard or temporary parking sticker expires. The person with the temporary disability shall include with the application for renewal a statement from a licensed physician certifying that the applicant continues to be a person with a temporary disability and the estimated period of the disability.

14. A special or temporary parking placard must be displayed in the vehicle when the vehicle is parked by hanging or attaching the placard to the rearview mirror of the vehicle. If the vehicle has no rearview mirror, the placard must be placed on the dashboard of the vehicle in such a manner that the placard can easily be seen from outside the vehicle when the vehicle is parked.

15. Upon issuing a special license plate pursuant to subsection 1, a special or temporary parking placard, or a special or temporary parking sticker, the Department, or the city or county, if applicable, shall issue a letter to the applicant that sets forth the name and address of the person with a permanent disability, disability of moderate duration or temporary disability to whom the special license plate, special or temporary parking placard or special or temporary parking sticker has been issued and:

(a) If the person receives special license plates, the license plate number designated for the plates; and

(b) If the person receives a special or temporary parking placard or a special or temporary parking sticker, the identification number and date of expiration indicated on the placard or sticker.

➡ The letter, or a legible copy thereof, must be kept with the vehicle for which the special license plate has been issued or in which the person to whom the special or temporary parking placard or special or temporary parking sticker has been issued is driving or is a passenger.

16. A special or temporary parking sticker must be affixed to the windscreen of the motorcycle ~~or~~ **or moped**. If the motorcycle **or moped** has no windscreen, the sticker must be affixed to any other part of the motorcycle **or moped** which may be easily seen when the motorcycle **or moped** is parked.

17. Special or temporary parking placards, special or temporary parking stickers, or special license plates issued pursuant to this section do not authorize parking in any area on a highway where parking is prohibited by law.

18. No person, other than the person certified as being a person with a permanent disability, disability of moderate duration or temporary disability, or a person actually transporting such a person, may use the special license plate or plates or a special or temporary parking placard, or a special or temporary parking sticker issued pursuant to this section to obtain any special parking privileges available pursuant to this section.

19. Any person who violates the provisions of subsection 18 is guilty of a misdemeanor.

20. The Department may review the eligibility of each holder of a special parking placard, a special parking sticker or special license plates, or any combination thereof. Upon a determination of ineligibility by the Department, the holder shall surrender the special parking placard, special parking sticker or special license plates, or any combination thereof, to the Department.

21. The Department may adopt such regulations as are necessary to carry out the provisions of this section.

Sec. 10. NRS 482.451 is hereby amended to read as follows:

482.451 1. The Department shall, upon receiving an order from a court to suspend the registration of each motor vehicle that is registered to or owned by a person pursuant to NRS 484C.520, suspend the registration of

each such motor vehicle for 5 days and require the return to the Department of the license plates of each such motor vehicle.

2. If the registration of a motor vehicle of a person is suspended pursuant to this section, the person shall immediately return the certificate of registration and the license plates to the Department.

3. The period of suspension of the registration of a motor vehicle that is suspended pursuant to this section begins on the effective date of the suspension as set forth in the notice thereof.

4. The Department shall reinstate the registration of a motor vehicle that was suspended pursuant to this section and reissue the license plates of the motor vehicle only upon the payment of the fee for reinstatement of registration prescribed in subsection ~~10~~ **11** of NRS 482.480.

5. The suspension of the registration of a motor vehicle pursuant to this section does not prevent the owner of the motor vehicle from selling or otherwise transferring an interest in the motor vehicle.

Sec. 11. NRS 482.480 is hereby amended to read as follows:

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

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

2. Except as otherwise provided in subsection 3:

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

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

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

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

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

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

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

5. ***For each moped, a fee for registration of \$33.***

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

~~16.1~~ 7. Except as otherwise provided in subsection 7 of NRS 485.317, to reinstate the registration of a motor vehicle that is suspended pursuant to that section:

(a) A fee of \$250 for a registered owner who failed to have insurance on the date specified by the Department; or

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

➔ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

~~{7.}~~ **8.** For every travel trailer, a fee for registration of \$27.

~~{8.}~~ **9.** For every permit for the operation of a golf cart, an annual fee of \$10.

~~{9.}~~ **10.** For every low-speed vehicle, as that term is defined in NRS 484B.637, a fee for registration of \$33.

~~{10.}~~ **11.** To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of \$33.

Sec. 12. NRS 484B.467 is hereby amended to read as follows:

484B.467 1. Any parking space designated for persons who are handicapped must be indicated by a sign:

(a) Bearing the international symbol of access with or without the words “Parking,” “Handicapped Parking,” “Handicapped Parking Only” or “Reserved for the Handicapped,” or any other word or combination of words indicating that the space is designated for persons who are handicapped;

(b) Stating “Minimum fine of \$250 for use by others” or equivalent words; and

(c) The bottom of which must be not less than 4 feet above the ground.

2. In addition to the requirements of subsection 1, a parking space designated for persons who are handicapped which:

(a) Is designed for the exclusive use of a vehicle with a side-loading wheelchair lift; and

(b) Is located in a parking lot with 60 or more parking spaces,

➔ must be indicated by a sign using a combination of words to state that the space is for the exclusive use of a vehicle with a side-loading wheelchair lift.

3. If a parking space is designed for the use of a vehicle with a side-loading wheelchair lift, the space which is immediately adjacent and intended for use in the loading and unloading of a wheelchair into or out of such a vehicle must be indicated by a sign:

(a) Stating “No Parking” or similar words which indicate that parking in such a space is prohibited;

(b) Stating “Minimum fine of \$250 for violation” or similar words indicating that the minimum fine for parking in such a space is \$250; and

(c) The bottom of which must not be less than 4 feet above the ground.

4. An owner of private property upon which is located a parking space described in subsection 1, 2 or 3 shall erect and maintain or cause to be

erected and maintained any sign required pursuant to subsection 1, 2 or 3, whichever is applicable. If a parking space described in subsection 1, 2 or 3 is located on public property, the governmental entity having control over that public property shall erect and maintain or cause to be erected and maintained any sign required pursuant to subsection 1, 2 or 3, whichever is applicable.

5. A person shall not park a vehicle in a space designated for persons who are handicapped by a sign that meets the requirements of subsection 1, whether on public or privately owned property, unless the person is eligible to do so and the vehicle displays:

- (a) A special license plate or plates issued pursuant to NRS 482.384;
- (b) A special or temporary parking placard issued pursuant to NRS 482.384;
- (c) A special or temporary parking sticker issued pursuant to NRS 482.384;
- (d) A special license plate or plates, a special or temporary parking sticker, or a special or temporary parking placard displaying the international symbol of access issued by another state or a foreign country; or
- (e) A special license plate or plates for a veteran with a disability issued pursuant to NRS 482.377.

6. Except as otherwise provided in this subsection, a person shall not park a vehicle in a space that is reserved for the exclusive use of a vehicle with a side-loading wheelchair lift and is designated for persons who are handicapped by a sign that meets the requirements of subsection 2, whether on public or privately owned property, unless:

- (a) The person is eligible to do so;
- (b) The vehicle displays the special license plate, plates or placard set forth in subsection 5; and
- (c) The vehicle is equipped with a side-loading wheelchair lift.

➡ A person who meets the requirements of paragraphs (a) and (b) may park a vehicle that is not equipped with a side-loading wheelchair lift in such a parking space if the space is in a parking lot with fewer than 60 parking spaces.

7. A person shall not park in a space which:

- (a) Is immediately adjacent to a space designed for use by a vehicle with a side-loading wheelchair lift; and
 - (b) Is designated as a space in which parking is prohibited by a sign that meets the requirements of subsection 3,
- ➡ whether on public or privately owned property.

8. A person shall not use a plate, sticker or placard set forth in subsection 5 to park in a space designated for persons who are handicapped unless he or she is a person with a permanent disability, disability of moderate duration or temporary disability, a veteran with a disability or the driver of a vehicle in which any such person is a passenger.

9. A person with a permanent disability, disability of moderate duration or temporary disability to whom a:

(a) Special license plate, or a special or temporary parking sticker, has been issued pursuant to NRS 482.384 shall not allow any other person to park the vehicle, ~~for~~ motorcycle **or moped** displaying the special license plate or special or temporary parking sticker in a space designated for persons who are handicapped unless the person with the permanent disability, disability of moderate duration or temporary disability is a passenger in the vehicle or on the motorcycle ~~for~~ **or moped**, or is being picked up or dropped off by the driver of the vehicle, ~~for~~ motorcycle ~~for~~ **or moped**, at the time that the vehicle, ~~for~~ motorcycle **or moped** is parked in the space designated for persons who are handicapped.

(b) Special or temporary parking placard has been issued pursuant to NRS 482.384 shall not allow any other person to park the vehicle which displays the special or temporary parking placard in a space designated for persons who are handicapped unless the person with the permanent disability, disability of moderate duration or temporary disability is a passenger in the vehicle, or is being picked up or dropped off by the driver of the vehicle, at the time that it is parked in the space designated for persons who are handicapped.

10. A person who violates any of the provisions of subsections 5 to 9, inclusive, is guilty of a misdemeanor and shall be punished:

(a) Upon the first offense, by a fine of \$250.

(b) Upon the second offense, by a fine of \$250 and not less than 8 hours, but not more than 50 hours, of community service.

(c) Upon the third or subsequent offense, by a fine of not less than \$500, but not more than \$1,000 and not less than 25 hours, but not more than 100 hours, of community service.

Sec. 13. NRS 485.317 is hereby amended to read as follows:

485.317 1. The Department shall verify that each motor vehicle which is registered in this State is covered by a policy of liability insurance as required by NRS 485.185.

2. Except as otherwise provided in this subsection, the Department may use any information to verify whether a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.

3. If the Department is unable to verify that a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a request for information by first-class mail to the registered owner of the motor vehicle. The owner shall submit all the information which is requested to the Department within 15 days after the date on which the request for information was mailed by the Department. If the Department does not receive the requested information within 15 days after it mailed the request to the owner, the Department shall send to the owner a notice of

suspension of registration by certified mail. The notice must inform the owner that unless the Department is able to verify that the motor vehicle is covered by a policy of liability insurance as required by NRS 485.185 within 10 days after the date on which the notice was sent by the Department, the owner's registration will be suspended pursuant to subsection 4.

4. The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the Department cannot verify the coverage of liability insurance required by NRS 485.185.

5. Except as otherwise provided in subsection 6, the Department shall reinstate the registration of the vehicle and reissue the license plates only upon verification of current insurance and payment of the fee for reinstatement of registration prescribed in paragraph (a) of subsection ~~6~~ 7 of NRS 482.480.

6. If a registered owner proves to the satisfaction of the Department that the vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, the Department shall reinstate the registration and, if applicable, reissue the license plates. If such an owner of a dormant vehicle failed to cancel the registration for the vehicle in accordance with subsection 3 of NRS 485.320, the Department shall not reinstate the registration or reissue the license plates unless the owner pays the fee set forth in paragraph (b) of subsection ~~6~~ 7 of NRS 482.480.

7. If the Department suspends the registration of a motor vehicle pursuant to subsection 4 because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that the owner was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances, the Department may:

(a) Reinstate the registration of the motor vehicle and reissue the license plates upon payment by the registered owner of a fee of \$50, which must be deposited in the Account for Verification of Insurance created by subsection ~~6~~ 7 of NRS 482.480; or

(b) Rescind the suspension of the registration without the payment of a fee.

➤ The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 14. NRS 486.231 is hereby amended to read as follows:

486.231 1. The Department shall adopt standards for ~~protective~~ :

(a) **Protective headgear for drivers and passengers of mopeds.**

(b) **Protective** headgear and protective glasses, goggles or face shields ~~to be worn by the~~ **for** drivers and passengers of motorcycles and transparent windscreens for motorcycles.

2. Except as **otherwise** provided in this section, ~~when~~ **the driver and passenger of any [motorcycle,]** :

(a) **Motorcycle**, except a trimobile, ~~or moped, is~~ being driven on a highway ~~[the driver and passenger]~~ shall wear protective headgear securely fastened on the head and protective glasses, goggles or face shields ~~[meeting]~~ **which meet** those standards. ~~[Drivers and passengers of trimobiles]~~

(b) **Trimobile being driven on a highway** shall wear protective glasses, goggles or face shields which meet those standards.

(c) **Moped being driven on a highway shall wear protective headgear securely fastened on the head which meets those standards.**

3. When a motorcycle or a trimobile is equipped with a transparent windscreen ~~[meeting]~~ **which meets** those standards, the driver and passenger are not required to wear glasses, goggles or face shields.

4. When a motorcycle **or moped** is being driven in a parade authorized by a local authority, the driver and passenger are not required to wear the protective devices provided for in this section.

5. When a three-wheel motorcycle on which the driver and passengers ride within an enclosed cab is being driven on a highway, the driver and passengers are not required to wear the protective devices required by this section.

Sec. 15. NRS 486.241 is hereby amended to read as follows:

486.241 1. A person shall not sell, offer for sale or distribute any protective headgear, glasses, goggles or face shields for use by any drivers or passengers of motorcycles **or mopeds** or transparent windscreens for motorcycles unless the equipment is of a type and specification meeting the standards therefor adopted by the Department.

2. The provisions of this section do not prohibit the sale of protective headgear, glasses, goggles or face shields which comply with the rules and regulations adopted by the United States Department of Transportation.

Sec. 16. This act becomes effective on July 1, 2012.

Assemblywoman Dondero Loop moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 537.

Bill read second time.

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

Amendment No. 285.

AN ACT relating to health care practitioners; prohibiting certain health care practitioners from ~~[participating in the procurement, purchase or consumption of]~~ **knowingly procuring or administering** certain drugs that are not ~~[labeled]~~ **approved** in accordance with federal regulations; providing that such participation is grounds for disciplinary action or denial of licensure; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The **Federal Food, Drug and Cosmetic Act requires the** United States Food and Drug Administration ~~requires that~~ **to approve** certain prescription drugs. ~~include a label which meets federal regulations for such labels. (21 C.F.R. Part 201))~~ **(21 U.S.C. §§ 301 et seq.)** Existing law in this State authorizes certain health care practitioners, including physicians, physician assistants, dentists, advanced practitioners of nursing, osteopathic physicians, osteopathic physician assistants, podiatric physicians, ~~and~~ **and** optometrists, ~~and veterinarians,~~ to prescribe and administer controlled substances and dangerous drugs under certain circumstances. (NRS 639.0125, 639.235) This bill prohibits those health care practitioners ~~and pharmacists from aiding, assisting, employing or advising, directly or indirectly, any person in the procurement, purchase or consumption of~~ **from knowingly procuring and administering** controlled substances and dangerous drugs that ~~do not include a label as required~~ **are not approved** under federal law ~~and~~ **, unless the unapproved controlled substances and dangerous drugs were procured through a retail pharmacy, were procured through certain Canadian pharmacies or are considered marijuana used for medical purposes.** This bill further authorizes disciplinary action to be taken against health care practitioners for violations of the prohibition.

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

Section 1. 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. ~~Aiding, assisting, employing or advising, directly or indirectly, any person to procure, purchase or consume~~ Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS ~~for which a label required~~ that is not approved by the United States Food and Drug Administration ~~pursuant to 21 C.F.R. Part 201 is not included.~~, unless the unapproved controlled substance or dangerous drug:

(a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

Sec. 2. NRS 631.3475 is hereby amended to read as follows:

631.3475 The following acts, among others, constitute unprofessional conduct:

1. Malpractice;
2. Professional incompetence;
3. Suspension or revocation of a license to practice dentistry, the imposition of a fine or other disciplinary action by any agency of another state authorized to regulate the practice of dentistry in that state;
4. More than one act by the dentist or dental hygienist constituting substandard care in the practice of dentistry or dental hygiene;
5. Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, if it is not required to treat the dentist's patient;

6. ~~Aiding, assisting, employing or advising, directly or indirectly, any person to procure, purchase or consume~~ **Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS [for which a label required] that is not approved by the United States Food and Drug Administration [pursuant to 21 C.F.R. Part 201 is not included], unless the unapproved controlled substance or dangerous drug:**

(a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS;

7. Chronic or persistent inebriety or addiction to a controlled substance, to such an extent as to render the person unsafe or unreliable as a practitioner, or such gross immorality as tends to bring reproach upon the dental profession;

~~{7.}~~ **8.** Conviction of a felony or misdemeanor involving moral turpitude or which relates to the practice of dentistry in this State, or conviction of any criminal violation of this chapter;

~~{8.}~~ **9.** Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive; or

~~{9.}~~ **10.** Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➡ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 3. NRS 632.320 is hereby amended to read as follows:

632.320 1. The Board may deny, revoke or suspend any license or certificate applied for or issued pursuant to this chapter, or take other disciplinary action against a licensee or holder of a certificate, upon determining that the licensee or certificate holder:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license or certificate pursuant to this chapter.

(b) Is guilty of any offense:

(1) Involving moral turpitude; or

(2) Related to the qualifications, functions or duties of a licensee or holder of a certificate,

↪ in which case the record of conviction is conclusive evidence thereof.

(c) Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(d) Is unfit or incompetent by reason of gross negligence or recklessness in carrying out usual nursing functions.

(e) Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs his or her ability to conduct the practice authorized by the license or certificate.

(f) Is a person with mental incompetence.

(g) Is guilty of unprofessional conduct, which includes, but is not limited to, the following:

(1) Conviction of practicing medicine without a license in violation of chapter 630 of NRS, in which case the record of conviction is conclusive evidence thereof.

(2) Impersonating any applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license or certificate.

(3) Impersonating another licensed practitioner or holder of a certificate.

(4) Permitting or allowing another person to use his or her license or certificate to practice as a licensed practical nurse, registered nurse or nursing assistant.

(5) Repeated malpractice, which may be evidenced by claims of malpractice settled against the licensee or certificate holder.

(6) Physical, verbal or psychological abuse of a patient.

(7) Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.

(h) Has willfully or repeatedly violated the provisions of this chapter. The voluntary surrender of a license or certificate issued pursuant to this chapter is prima facie evidence that the licensee or certificate holder has committed or expects to commit a violation of this chapter.

(i) Is guilty of aiding or abetting any person in a violation of this chapter.

(j) Has falsified an entry on a patient's medical chart concerning a controlled substance.

(k) Has falsified information which was given to a physician, pharmacist, podiatric physician or dentist to obtain a controlled substance.

~~(l) Has aided, assisted, employed or advised, directly or indirectly, any person to procure, purchase or consume}~~ **knowingly procured or administered a controlled substance or a dangerous drug as defined in chapter 454 of NRS [for which a label required] that is not approved by the United States Food and Drug Administration [pursuant to 21 C.F.R. Part 201 is not included], unless the unapproved controlled substance or dangerous drug:**

(1) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(2) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(3) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

(m) Has been disciplined in another state in connection with a license to practice nursing or a certificate to practice as a nursing assistant or has committed an act in another state which would constitute a violation of this chapter.

~~{(n)}~~ (n) Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.

~~{(o)}~~ (o) Has willfully failed to comply with a regulation, subpoena or order of the Board.

~~{(p)}~~ (p) Has operated a medical facility at any time during which:

(1) The license of the facility was suspended or revoked; or

(2) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

➡ This paragraph applies to an owner or other principal responsible for the operation of the facility.

2. For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere constitutes a conviction of an offense. The Board may take disciplinary action pending the appeal of a conviction.

Sec. 4. 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. ~~[Aiding, assisting, employing or advising, directly or indirectly, any person to procure, purchase or consume]~~ **Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS [for which a label required] that is not approved by the United States Food and Drug Administration [pursuant to 21 C.F.R. Part 201 is not included.], unless the unapproved controlled substance or dangerous drug:**
- (a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;**
 - (b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or**
 - (c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.**
13. 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.}~~ **14.** Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

~~{14.}~~ **15.** 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.}~~ **16.** 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.}~~ **17.** 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.}~~ **18.** Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

Sec. 5. 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) Willful or repeated violations of this chapter or regulations adopted by the Board.

(n) Willful violation of the regulations adopted by the State Board of Pharmacy.

(o) ~~Aiding, assisting, employing or advising, directly or indirectly, any person to procure, purchase or consume~~ **Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS [for which a label required] that is not approved by the United States Food and Drug Administration [pursuant to 21 C.F.R. Part 201 is not included.] , unless the unapproved controlled substance or dangerous drug:**

(1) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(2) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(3) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

(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. 6. NRS 636.295 is hereby amended to read as follows:

636.295 The following acts, conduct, omissions, or mental or physical conditions, or any of them, committed, engaged in, omitted, or being suffered by a licensee, constitute sufficient cause for disciplinary action:

1. Affliction of the licensee with any communicable disease likely to be communicated to other persons.

2. Commission by the licensee of a felony relating to the practice of optometry or a gross misdemeanor involving moral turpitude of which the licensee has been convicted and from which he or she has been sentenced by a final judgment of a federal or state court in this or any other state, the judgment not having been reversed or vacated by a competent appellate court and the offense not having been pardoned by executive authority.

3. Conviction of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

4. Commission of fraud by or on behalf of the licensee in obtaining a license or a renewal thereof, or in practicing optometry thereunder.

5. Habitual drunkenness or addiction to any controlled substance.

6. Gross incompetency.

7. Affliction with any mental or physical disorder or disturbance seriously impairing his or her competency as an optometrist.

8. Making false or misleading representations, by or on behalf of the licensee, with respect to optometric materials or services.

9. Practice by the licensee, or attempting or offering so to do, while in an intoxicated condition.

10. Perpetration of unethical or unprofessional conduct in the practice of optometry.

11. ~~[Aiding, assisting, employing or advising, directly or indirectly, any person to procure, purchase or consume]~~ **Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS [for which a label required] that is not approved by the United States Food and Drug Administration [pursuant to 21 C.F.R. Part 201 is not included.], unless the unapproved controlled substance or dangerous drug:**

(a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

12. Any violation of the provisions of this chapter or any regulations adopted pursuant thereto.

~~[12.]~~ 13. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

↪ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 7. [NRS 639.140 is hereby amended to read as follows:]

~~639.140 The following acts, among others, are grounds for disciplinary action:~~

~~1. Violation of a regulation adopted by the State Board of Pharmacy or the Nevada State Board of Veterinary Medical Examiners;~~

~~2. Habitual drunkenness;~~

~~3. Addiction to the use of a controlled substance;~~

~~4. Conviction of or a plea of nolo contendere to a felony related to the practice of veterinary medicine, or any offense involving moral turpitude;~~

~~5. Incompetence;~~

~~6. Negligence;~~

~~7. Malpractice pertaining to veterinary medicine as evidenced by an action for malpractice in which the holder of a license is found liable for damages;~~

~~8. Conviction of a violation of any law concerning the possession, distribution or use of a controlled substance or a dangerous drug as defined in chapter 454 of NRS;~~

~~9. Willful failure to comply with any provision of this chapter, a regulation, subpoena or order of the Board, the standard of care established by the American Veterinary Medical Association or an order of a court;~~

~~10. Prescribing, administering or dispensing a controlled substance to an animal to influence the outcome of a competitive event in which the animal is a competitor;~~

~~11. Aiding, assisting, employing or advising, directly or indirectly, any person to procure, purchase or consume a controlled substance or a dangerous drug as defined in chapter 454 of NRS for which a label required by the United States Food and Drug Administration pursuant to 21 C.F.R. Part 201 is not included;~~

~~12. Willful failure to comply with a request by the Board for medical records within 14 days after receipt of a demand letter issued by the Board;~~

~~[12.] 13. Willful failure to accept service by mail or in person from the Board;~~

~~[13.] 14. Failure of a supervising veterinarian to provide immediate or direct supervision to licensed or unlicensed personnel if the failure results in malpractice or the death of an animal; and~~

~~[14.] 15. Failure of a supervising veterinarian to ensure that a licensed veterinarian is on the premises of a facility or agency when medical treatment is administered to an animal if the treatment requires direct or immediate supervision by a licensed veterinarian.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 639.210 is hereby amended to read as follows:~~

~~639.210 The Board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter, and deny the application of any person for a certificate, license, registration or permit, if the holder or applicant:~~

~~1. Is not of good moral character;~~

~~2. Is guilty of habitual intemperance;~~

~~3. Becomes or is intoxicated or under the influence of liquor, any depressant drug or a controlled substance, unless taken pursuant to a lawfully issued prescription, while on duty in any establishment licensed by the Board;~~

~~4. Is guilty of unprofessional conduct or conduct contrary to the public interest;~~

- ~~5. Is addicted to the use of any controlled substance;~~
- ~~6. Has been convicted of a violation of any law or regulation of the Federal Government or of this or any other state related to controlled substances, dangerous drugs, drug samples, or the wholesale or retail distribution of drugs;~~
- ~~7. Has been convicted of:~~
 - ~~(a) A felony relating to holding a certificate, license, registration or permit pursuant to this chapter;~~
 - ~~(b) A felony pursuant to NRS 639.550 or 639.555; or~~
 - ~~(c) Other crime involving moral turpitude, dishonesty or corruption;~~
- ~~8. Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;~~
- ~~9. Has willfully made to the Board or its authorized representative any false statement which is material to the administration or enforcement of any of the provisions of this chapter;~~
- ~~10. Has obtained any certificate, certification, license or permit by the filing of an application, or any record, affidavit or other information in support thereof, which is false or fraudulent;~~
- ~~11. Has violated any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs;~~
- ~~12. Has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy, or has knowingly permitted, allowed, condoned or failed to report a violation of any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy committed by the holder of a certificate, license, registration or permit;~~
- ~~13. **Has aided, assisted, employed or advised, directly or indirectly, any person to procure, purchase or consume a controlled substance or a dangerous drug as defined in chapter 454 of NRS for which a label required by the United States Food and Drug Administration pursuant to 21 C.F.R. Part 201 is not included;**~~
- ~~14. Has failed to renew a certificate, license or permit by failing to submit the application for renewal or pay the renewal fee therefor;~~
- ~~[14.] 15. Has had a certificate, license or permit suspended or revoked in another state on grounds which would cause suspension or revocation of a certificate, license or permit in this State;~~
- ~~[15.] 16. Has, as a managing pharmacist, violated any provision of law or regulation concerning recordkeeping or inventory in a store over which he or she presides, or has knowingly allowed a violation of any provision of this chapter or other state or federal laws or regulations relating to the practice of pharmacy by personnel of the pharmacy under his or her supervision;~~
- ~~[16.] 17. Has repeatedly been negligent, which may be evidenced by claims of malpractice settled against him or her;~~

~~{17.} 18. Has failed to maintain and make available to a state or federal officer any records in accordance with the provisions of this chapter or chapter 453 or 454 of NRS;~~

~~{18.} 19. Has failed to file or maintain a bond or other security if required by NRS 639.515; or~~

~~{19.} 20. Has operated a medical facility, as defined in NRS 449.0151, at any time during which:~~

~~(a) The license of the facility was suspended or revoked; or~~

~~(b) An act or omission occurred which resulted 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. (Deleted by amendment.)~~

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 546.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 417.

AN ACT relating to children; making various changes to provisions governing early childhood care and education; providing for the establishment by statute of the Early Childhood Advisory Council; requiring certain training of persons who are employed in early childhood care; requiring annual reports concerning such training to be submitted to the Department of Education and the Legislative Committee on Education; requiring the Board for Child Care to adopt regulations establishing requirements for courses of training in child care for employees of a child care facility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes various changes to the provisions governing early childhood care and education. The Nevada Early Childhood Advisory Council was created by an Executive Order of the Governor on September 11, 2009. By the terms of the Executive Order, the Council will cease to exist on July 31, 2011, if it is not continued by Executive Order. **Section 5** of this bill statutorily provides for the establishment of the Early Childhood Advisory Council by the Director of the Department of Health and Human Services. The statutory Council has substantially the same duties as the Council created by the Executive Order. **Section 13** of this bill provides that the Nevada Early Childhood Advisory Council created by the Governor shall be deemed to be the Council required to be established by the Director until such time as the Director revises the membership or duties of the Council. **Section 6** of this bill requires the Council, in consultation with the Department of Education, to establish goals for the training of persons who are employed in early childhood care in the Pre-Kindergarten Content

Standards developed by the Department of Education, assist in developing standards and qualifications for such training, develop standards for professional development, ~~and~~ create or adopt a model for highly effective teachers for use as a resource in early childhood education ~~and~~ **and study and develop recommendations for appropriate group sizes in early childhood education and care.** Section 7 of this bill requires the Department of Education to develop the training module that must be used in such training. Section 8 of this bill requires licensed child care facilities which receive certain government subsidies to ensure that each employee who provides child care services to children who are in early childhood receives approved training in the Pre-Kindergarten Content Standards. Section 9 of this bill requires the Council to submit an annual report to the Department of Education and the Legislative Committee on Education concerning such training. Section 12 of this bill requires the Board for Child Care to adopt regulations establishing requirements for courses of training in child care for employees of a child care facility. The regulations must provide for the annual completion of not less than ~~20~~ **24** hours of such training, at least 16 hours of which must be training relating to early childhood development and the Pre-Kindergarten Content Standards.

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

Section 1. Chapter 432A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *“Council” means the Early Childhood Advisory Council established within the Department pursuant to section 5 of this act.*

Sec. 3. *“Nevada Registry” means the organization that operates the statewide system of career development and recognition created to:*

- 1. Acknowledge and encourage professional achievement in the early childhood care and education workforce in this State;*
- 2. Establish a professional development system in this State in the field of early childhood care and education;*
- 3. Approve and track all informal training in the field of early childhood care and education in this State; and*
- 4. Act as a statewide clearinghouse for information concerning early childhood care and education.*

Sec. 4. *“Pre-Kindergarten Content Standards” means the content standards developed by the Department of Education in conjunction with various other state agencies which describe appropriate outcomes for children who are completing their preschool development.*

Sec. 5. *The Director shall establish the Early Childhood Advisory Council within the Department and shall appoint such members to the Council as the Director determines appropriate. The Council shall:*

1. Work to strengthen state-level coordination and collaboration among the various sectors and settings of early childhood programs in this State.

2. Conduct periodic statewide assessments of needs relating to the quality and availability of programs and services for children who are in early childhood and identify opportunities for and barriers to coordination and collaboration among existing federally-funded and state-funded early childhood programs.

3. Develop recommendations for:

(a) Increasing the overall participation of children in existing federal, state and local programs for child care and early childhood education, including, without limitation, providing information on such programs to underrepresented and special populations;

(b) The establishment or improvement of core elements of the early childhood system in this State, including, without limitation, a statewide unified system for collecting data relating to early childhood programs;

(c) A statewide professional development system for teachers engaged in early childhood education; and

(d) The establishment of statewide standards for early childhood education in this State.

4. Assess the capacity and effectiveness of institutions of higher education in this State in developing teachers in the field of early childhood education.

5. Perform such other duties relating to early childhood education and programs as designated by the Director.

Sec. 6. The Council, in consultation with the Department of Education, shall, to the extent practicable:

1. Establish goals for the training of all persons who are employed in early childhood care in the Pre-Kindergarten Content Standards;

2. Assist the Nevada Registry or its successor organization, or any other agency designated by the Director of the Department of Health and Human Services, in developing the qualifications required of persons who conduct training in the Pre-Kindergarten Content Standards and the approval of such training;

3. Develop standards for professional development in the Pre-Kindergarten Content Standards; ~~and~~

4. Create or adopt a model for highly effective teachers that can be used as a resource in early childhood education for teachers and caregivers of children ~~for~~; and

5. Study and develop recommendations for appropriate group sizes in early childhood education and care.

Sec. 7. 1. The Department of Education shall, in consultation with persons who are qualified to conduct training in the Pre-Kindergarten Content Standards, develop the training module that must be used in such training.

2. *To the extent that money is available to pay for the training, the Department of Education shall arrange to have the training provided at no or reduced cost to the employees of child care facilities.*

Sec. 8. *Each child care facility which is licensed pursuant to this chapter or by a city or county ~~and~~ or which receives reimbursement from the Program for Child Care and Development administered by the Division of Welfare and Supportive Services of the Department pursuant to chapter 422A of NRS shall ensure that, ~~for or before January 1, 2012, or within 90 days after employment, whichever is later,~~ in accordance with the regulations adopted by the Board pursuant to paragraph (c) of subsection 1 of NRS 432A.077, each employee of the child care facility who provides child care services in the child care facility to children who are in early childhood receives training which is approved by the Nevada Registry or its successor organization, or any other agency designated by the Director, in the Pre-Kindergarten Content Standards.*

Sec. 9. *The Council shall submit annually to the Department of Education and the Legislative Committee on Education a report concerning:*

1. *The number of persons employed in early childhood care in this State, categorized by types of early childhood certification held, if any;*
2. *The status of the goals for the training of all such persons in the Pre-Kindergarten Content Standards; and*
3. *The money spent on the training of all such persons in the Pre-Kindergarten Content Standards.*

Sec. 10. NRS 432A.020 is hereby amended to read as follows:

432A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432A.0205 to 432A.028, inclusive, **and sections 2, 3 and 4 of this act** have the meanings ascribed to them in those sections.

Sec. 11. NRS 432A.035 is hereby amended to read as follows:

432A.035 ~~The~~ **Except as otherwise provided in section 8 of this act,** the provisions of this chapter do not apply to the Program for Child Care and Development administered by the Division of Welfare and Supportive Services of the Department pursuant to chapter 422A of NRS.

Sec. 12. NRS 432A.077 is hereby amended to read as follows:

432A.077 1. The Board shall adopt:

- (a) Licensing standards for child care facilities.
- (b) In consultation with the State Fire Marshal, plans and requirements to ensure that each child care facility and its staff is prepared to respond to emergencies, including, without limitation:
 - (1) The conducting of fire drills on a monthly basis;
 - (2) The adoption of plans to respond to natural disasters and emergencies other than those involving fire; and
 - (3) The adoption of plans to provide for evacuation of child care facilities in an emergency.

(c) *Regulations establishing the requirements for courses of training in child care for employees of a child care facility. The regulations must provide for continuing training in child care which must include, without limitation, the annual completion by each employee of not less than ~~30~~ 24 hours of such training, not less than 16 hours of which must be training relating to early childhood development and the Pre-Kindergarten Content Standards which is approved by the Nevada Registry or its successor organization, or any other agency designated by the Director.*

(d) Such other regulations as it deems necessary or convenient to carry out the provisions of this chapter.

2. The Board shall require that the practices and policies of each child care facility provide adequately for the protection of the health and safety and the physical, moral and mental well-being of each child accommodated in the facility.

3. If the Board finds that the practices and policies of a child care facility are substantially equivalent to those required by the Board in its regulations, it may waive compliance with a particular standard or other regulation by that facility.

Sec. 12.5. The Board for Child Care shall, on or before July 1, 2012, adopt the regulations required by paragraph (c) of subsection 1 of NRS 432A.077, as amended by section 12 of this act.

Sec. 13. Notwithstanding the provisions of section 5 of this act, the Nevada Early Childhood Advisory Council created by the Governor by Executive Order on September 11, 2009, shall be deemed to be the Early Childhood Advisory Council required to be established by the Director of the Department of Health and Human Services pursuant to section 5 of this act until such time as the Director revises the membership or duties of the Council.

Sec. 14. 1. This section and sections 5 and 13 of this act become effective upon passage and approval.

2. Sections 1 to 4, inclusive, and 6 ~~to 12, inclusive,~~ **7, 9, 10, 12 and 12.5** of this act become effective on ~~October~~ **July 1, 2011.**

3. Sections 8 and 11 of this act become effective on July 1, 2012.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that upon return from the printer, Assembly Bill No. 307 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Conklin moved that the Assembly recess until 5 p.m.

Motion carried.

Assembly in recess at 12:11 p. m.

ASSEMBLY IN SESSION

At 5:15 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering in work session the Governor's proposed K-12 budget, with Assemblyman Ocegüera as Chairman of the Committee of the Whole.

Motion carried.

IN COMMITTEE OF THE WHOLE

Chair Ocegüera presiding.

Quorum present.

Governor's proposed K-12 budget considered.

CHAIR OCEGUERA:

As you all know, tonight we are going into the Committee of the Whole. We did this on the first day of session, but I want to remind you what is different from what we do on the floor. Committee of the Whole operates under very similar rules of order as your committees, the only real difference being all of us function as one big committee. You should address me as Mr. Chair, not Mr. Speaker, and just like in a committee we will have witnesses.

In our budget committee work sessions, we often ask what the sense of the members is on a particular issue, and those votes are not binding. They are only for the benefit of the committee and the public to understand where we stand, and we will do that tonight in the Committee of the Whole as well.

In the Committee of the Whole we are bringing major budget discussions out of the subcommittees, out of the committees, and out onto the Assembly and Senate floors for an open and transparent debate on the Governor's K-12 (kindergarten through grade 12) education budget for all Nevadans to see.

The Committee of the Whole is also to help individual legislators who do not serve on the money committees to understand what the cuts to K-12 education proposed by the Governor are and have more input into the decisions that are made. Similarly, if you do not serve on a committee and a bill comes out of committee, you have to kind of read those bills and come to the floor and rely on your colleagues. That same thing happens in the budget. The Ways and Means Committee reviews the budget in subcommittee, then in full committee, and then a committee with joint Finance and Ways and Means, and those of you who do not serve on those committees sometimes do not get to hear that full testimony. We are not going to go through, you know, line by line, as has already been done in those committees, but it does offer those of you who have not heard some of these issues an opportunity to hear and to ask questions.

We have got some big decisions to make, and I think Nevadans know what their elected representatives are doing. Over the last three years, Nevada's schools have been cut by one-half billion dollars. The Governor's budget proposes to cut over \$1 billion and with local revenue reductions will result in another \$168 million cut to school budgets. If the Governor's budget stands, we will have contributed to an almost \$1.7 billion cut to education in four years.

Tonight every one of us will take a stand. Will we decimate education funding or stop the bleeding?

We have the biggest economic crisis in our state's history, and I believe, and I think some experts and business across the state and the nation will tell us, continued cuts of this magnitude to education will cost us more in the long run, weakening our economy, causing us to have less and less support for education year in and year out. It seems to me to be a vicious spiral.

Two of Nevada's major business groups agree. The Las Vegas and Reno-Sparks Chambers of Commerce recognize the need for additional revenue to save education—they stand for additional revenue to save education.

TechAmerica, the most important advocacy organization for high-tech business in the nation, met with leaders from both the minority and the majority to discuss ways to entice companies to come to Nevada, but they told us before they consider investing in our state, they want to see us invest in ourselves first.

I do not think our current approach is working. We need to work with business and to create a structure that keeps in mind that businesses are suffering and balance it by stopping the crippling cuts to education so as not to lead to economic stagnation.

I hope you all remember that our state has one of the lowest tax rates in the nation, and we fund education at a level that is very close to last in the nation as well. I think we can do better. We can still be one of the lowest taxed states in the nation, but not starve our schools. I understand no one here wants to raise revenue, but by not considering revenue, we are sacrificing our future.

So as we begin these discussions and decide where we stand, I think we have to look within our hearts, forget about the politics and think about our kids and our future, think about our constituents and their kids and their future. I urge you to think back to the education you and those closest to you received and the role it played in the person you became today, an honorable legislator making historic decisions about your state and the millions of people who live here.

This session, we are deciding what kind of state we want to be.

With that, ladies and gentlemen, I would like to open up the overview from our Fiscal staff. I can only see the backs of their heads, but Rick is very recognizable so I see Rick's head and I think Julie's, so I think they are going to be the ones that are going to go through the K-12 budget overview.

RICK COMBS, ASSEMBLY FISCAL ANALYST, FISCAL ANALYSIS DIVISION:

Thank you, Mr. Chairman. For the record, Rick Combs, Assembly Fiscal Analyst. Today I have with me Mike Chapman, Principal Deputy Fiscal Analyst, and Julie Waller, Program Analyst. Julie is the one in our office who is responsible for the budgets for K-12 education.

What you have in front of you today is simply a summary of the Governor's recommended budget for K-12 education. It is updated to the extent we could for amendments that have been submitted since the original Governor's recommended budget was received, and I'm going to turn it over to Julie to let her go through the document with you.

JULIE WALLER, PROGRAM ANALYST, FISCAL ANALYSIS DIVISION:

Thank you, Rick. The budget accounts for K-12 education include six accounts: the Distributive School Account (DSA), the School Remediation Trust Fund, the Incentives for Licensed Educational Personnel, Other State Education Programs, the Educational Trust Fund, and the State Supplemental School Support Fund.

The table on the first page of the document compares state K-12 funding approved in the 2009 Legislative Session and as adjusted by the 26th Special Session (2010), with the K-12 education funding recommended in the Governor's budget for the 2011-2013 biennium prior to the submission of budget amendments. As you can see, the table reflects a reduction of state funding of 15 percent when compared to the funding approved by the 2009 Legislature and 11 percent when compared to the funding approved by the 26th Special Session.

As Rick mentioned, there have been 7 budget amendments submitted by the Administration that affect K-12 funding in the Governor's recommended budget that result in net General Fund increases of \$42.4 million in fiscal year 2012 and \$29.5 million in fiscal year 2013.

Attachment A at the back of your document is a table that details these amendments, while Attachment B is a summary of the DSA that also incorporates the budget amendments. A summary of the major K-12 funding reductions recommended in the Governor's budget is found in Attachment C.

The DSA is the budget through which the state distributes direct financial aid to the local school districts. Each session the Legislature determines the level of state aid for schools, or guaranteed basic support per pupil, through a formula called the "Nevada Plan," which considers the differences across districts in the costs of providing education as well as local wealth. The

DSA does not include the entire funding for K-12 education, but only represents the state's portion of school district and charter school operating funds.

Each school district's guaranteed level of state aid is determined by multiplying the basic support per pupil that is approved by the weighted enrollment. The Governor's budget includes a slight increase in the projected enrollment for the upcoming biennium from 422,570 students to 423,192 students in fiscal year 2012 and 424,460 students in fiscal year 2013.

The 2009 Legislature approved basic support per pupil of \$5,251 in fiscal year 2010 and \$5,395 for fiscal year 2011, which was reduced during the 26th Special Session to \$5,186 for fiscal 2010 and \$5,192 for fiscal year 2011 due to budget reductions. The funding reductions recommended by the Governor, as amended, result in average basic support per pupil of \$4,877 in fiscal year 2012 and \$4,878 per pupil for fiscal year 2013, which is a decrease of approximately \$518 from the average basic support per pupil approved during the 2009 Session of \$5,395 and a decrease of approximately \$315 when compared to the funding approved during the 26th Special Session.

The specific recommendations resulting in reductions to basic support are as follows:

The Governor recommends a 5 percent reduction of funding for salaries for all state and for all school personnel effective July 1, 2011. The recommendation, inclusive of budget amendments, results in a General Fund reduction to the DSA of approximately \$256.5 million over the biennium. It should be noted that the Legislature does not determine the level of salaries for school district and charter schools, but rather those are determined by each school district and charter school through collective bargaining. If the Governor's recommendation to reduce salaries for school personnel is approved, but school districts are unsuccessful in negotiating these reductions through collective bargaining, school districts and charter schools would need to reduce other expenditures as a result to compensate.

The second recommendation that impacts basic support per pupil is the recommendation to suspend funding for merit salary increases. The Governor's recommendation would result in General Fund savings totaling \$142.6 million over the biennium. School district personnel and charter school personnel are eligible for a merit salary increase based on years of service and the attainment of additional education experience.

For the 2009-2011 biennium, the Governor had also recommended suspension of merit salary increases for all state employees and school personnel. The 2009 Legislature approved this recommendation for all state employees, except that the Legislature restored funding for merit increases for licensed education personnel for the attainment of additional education experience. This recommendation would also be subject to collective bargaining.

The third recommendation that impacts basic support per pupil is the Public Employees' Retirement System (PERS) equalization. The Executive Budget, as amended, recommends a reduction for school district and charter school employees of approximately \$200.7 million over the biennium, representing an employee contribution of 5.3075 percent to the Public Employees' Retirement System.

By comparison, state employees who elect the employer-paid PERS option receive a salary reduction of 10.615 percent as their contribution to PERS, with the state then paying the full contribution. Presently, though school district and charter school employees participate in the employer-paid PERS, funding for salaries is not reduced in the DSA for the employee contribution to PERS. Just as with the other two recommendations impacting salaries, this would be subject to collective bargaining.

The last recommendation impacting basic support per pupil is a recommendation to reduce the guaranteed basic support funding of \$238.2 million over the biennium which, based on the projected enrollment included in the budget, equates to a per pupil funding reduction of \$286 in fiscal year 2012 and \$276 per pupil in fiscal year 2013.

The next recommendation included in The Executive Budget relates to utilizing excess school district debt service reserves as local funding available for operating purposes. Originally the Governor's budget proposed utilizing \$425 million as local funding, but the Administration submitted a budget amendment that reduces the excess debt service reserves transfer from \$425 million to \$301.9 million over the biennium, a reduction of \$123.1 million. Based on this amendment, the projected transfer available from rural school districts would be \$27.8 million

over the biennium, while the projected amounts for Clark and Washoe Counties would be \$220.3 million and \$53.8 million, respectively.

Fiscal staff is currently working with school district representatives analyzing and verifying the amounts that would be available from the debt service reserves should the Legislature ultimately decide to approve the Governor's recommendation.

The next items to be discussed are included in the Governor's budget for the DSA and are categorical funding but not part of the basic support guarantee.

The Governor's budget for special education includes a flat funding level at \$121.25 million each year of the 2011-2013 biennium. Special education is funded based on per unit, and those units equate to a portion of the cost of a special education teacher. The DSA does not fund the total cost of a special education teacher through the special education unit. School districts and charter schools are able to fund the remainder of this cost through their funding through the DSA and through federal funding and other local school district revenues.

The Governor's recommendation relating to class-size reduction includes the same recommendations for salary reductions and results in a recommendation of \$135.3 million in fiscal year 2012 and \$136.3 million in fiscal year 2013. This funding level represents decreases of 6.2 percent and 6.6 percent, respectively, over the legislatively approved funding for the current biennium. The Executive Budget also includes a recommendation to transfer this class-size reduction funding to a new program called the Student Achievement Block Grant program, and that will be discussed later on in the document when we talk about the School Remediation Trust Fund.

The Executive Budget also provides funding for the Adult High School Diploma program, and each session the Legislature determines an amount of funding for these programs for the general public and for the inmates within prison facilities. The Executive Budget recommends approximately \$33 million over the biennium for this program.

The Administration submitted a budget amendment to update the enrollment growth projections based on actual enrollment versus the projected enrollment for fiscal year 2010. The Governor's budget retains the funding for this program as a line item in the DSA as opposed to transferring it into the Student Achievement Block Grant program.

The Executive Budget recommends approximately \$6.7 million for early childhood education programs. This represents a slight increase over the funding approved for the current biennium, and this funding is recommended for transfer to the Student Achievement Block Grant program, where it would become an optional rather than required program.

The Executive Budget recommends approximately \$14.8 million to continue funding the Regional Professional Development Programs, including the Nevada Early Literacy Intervention Program and special administrator training programs. The Administration submitted a budget to apply the salary-related funding reductions, and that was approximately a \$1 million reduction from the current level of \$15 million for the Regional Professional Development Programs.

The next budget to be discussed is the School Remediation Trust Fund, and this is the budget in which the Governor recommends a new program for the upcoming biennium. That is the Student Achievement Block Grant, and that would combine the majority of categorical funding in four budget accounts—the DSA, the Remediation Trust Fund, the Incentives for Licensed Education Personnel, and Other State Education Programs— into a block grant with the idea of providing flexibility to school districts while increasing student achievement.

The Executive Budget, as amended, also recommends a 5.4 percent reduction of the funding recommended for transfer into the Student Achievement Block Grant program of \$7.4 million in fiscal year 2013. The amendment also postpones the implementation of this block grant program until the second year of the biennium. The total amount of funding recommended for transfer is \$161.6 million for fiscal year 2013.

According to the Administration, the Block Grant Program would provide districts and charter schools the flexibility to choose which programs to fund depending on the needs of their individual districts. However, schools would no longer be required to utilize the funding for specific programs designated by the state.

Included in this budget account is funding for full-day kindergarten. Since fiscal year 2007, the state has provided funding for 464.5 full-day kindergarten positions in approximately 128 elementary schools statewide.

The Executive Budget proposes a budget reduction of \$4.5 million over the biennium for this program. Additionally, the salary-related budget reductions total approximately \$6.7 million for the Full-Day Kindergarten program. Inclusive of these budget reductions and amendments, the Governor recommends approximately \$41.7 million over the 2011-2013 biennium to fund the Full-Day Kindergarten program. This program is also recommended for transfer into the proposed Student Achievement Block Grant program in fiscal year 2013.

The Governor also recommends funding for a new Teacher Performance Pay program beginning in fiscal year 2013. Twenty million dollars is included in the budget for this purpose, and Assembly Bill 557 is the enacting legislation.

The 2007 Legislature had appropriated \$10 million over the 2007-2009 biennium to support a performance-pay program. However, due to budget reductions, all this funding was subsequently eliminated. I would just note that during the work session held on March 31 in the K-12/Higher Education Joint Subcommittee, members of the Subcommittee generally expressed support for a Teacher Pay for Performance program, although there was concern expressed that perhaps this may not be the appropriate time to implement such a program given the magnitude of the cuts to K-12 education. Some members of the Subcommittee suggested perhaps the \$20 million could be used to offset other K-12 budget reductions.

The next budget account is the State Supplemental School Support Fund. The Governor's recommendation to defer proceeds from Initiative Petition No. 1 of the 75th Special Session room tax fund to the General Fund would defer approximately \$225 million. You may recall that I.P. No. 1 became law in 2009 and imposes an additional 3 percent tax on gross receipts from the rental of lodging in certain counties. For the current biennium, the initiative petition directed the funding to the General Fund, and effective July 1, 2011, the proceeds were to be directed to the State Supplemental School Support Fund to be distributed to school districts and charter schools to improve the achievement of students and to retain qualified teachers and nonadministrative employees.

I would note that the I.P. No. 1 room tax revenue for 2011 will be reforecast by the Economic Forum on May 2 so that funding level may be updated.

The next budget account for discussion is the Incentives for Licensed Educational Personnel. *Nevada Revised Statutes* (NRS) creates a grant fund for Incentives for Licensed Educational Personnel and requires each school district to establish a program of incentive pay for licensed educational personnel. The 1/5th Retirement Credit Purchase program was repealed and is grandfathered-in and will conclude in fiscal year 2013. The recommendations in The Executive Budget for this account reduce funding for the incentive grant awards in fiscal year 2012 by \$1.9 million and eliminate the incentive grant awards beginning in fiscal year 2013, resulting in a total General Fund savings of \$6.1 million over the biennium.

The Executive Budget recommends funding for the 1/5th Retirement Credit Purchase program in the amount of \$13 million in fiscal year 2012 for retirement credits that are earned in fiscal year 2011 and \$12.1 million in fiscal year 2013 for retirement credits earned in fiscal year 2012. And as I mentioned, fiscal year 2013 will be the last year for this program.

The Executive Budget as amended recommends General Fund support for the incentives at \$4.2 million in fiscal year 2012 for eligible incentives earned in fiscal year 2011.

The last budget account in this K-12 education overview is the Other State Education Programs. This is an account that provides pass-through funds to school districts for various programs such as the Apprenticeship program, Educational Technology, Career and Technical Education, National Board Certification program for teachers and counselors, in addition to various other smaller programs.

The Executive Budget recommends a budget reduction totaling \$2.1 million for the biennium prorated among all programs. In addition, the Governor recommends the funding for these programs also be transferred to the proposed Student Achievement Block Grant program where districts would decide which programs to fund to meet their needs.

And with that, I will turn it back to you.

CHAIR OCEGUERA:

Thank you, Julie. You did a great job trying to make the K-12 budget easily explainable in seven pages or less. I know it is hard to talk from down there in the well too, but we will go to

questions now, and I will try to help you if you cannot tell where they are coming from. I know it is challenging in the well. Questions? Mrs. Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Chairman. I had a question I wanted to have Ms. Waller qualify on the record regarding class-size reduction and full-day kindergarten. You mentioned that the funding has been reduced and moved outside the Distributive School Account, but also in this budget, the requirements for class-size reduction and full-day kindergarten are eliminated.

JULIE WALLER:

Assemblywoman Smith, yes, you are correct. Under the proposal, the requirements to implement those programs would be implemented, and those programs could be an optional use of the funding in the Student Achievement Block Grant program.

CHAIR OCEGUERA:

Thank you, Mrs. Smith. Further questions for our Fiscal staff?

All right. Let me just give you a rundown of who we are going to hear from. We are going to hear from our Fiscal staff. Then we are going to hear from the Budget office. We'll hear from the Clark County and Washoe County School Districts and the Association of School Superintendents, and then we will hear school boards; we will have public comment, and then we will discuss some more some of these issues. So we will turn now to the Budget office, if I could have a representative from the Budget office.

Welcome, Mr. Clinger, Mrs. Gansert. It is usually not this quiet in Committee either. Who would like to start?

ANDREW CLINGER, DIRECTOR, DEPARTMENT OF ADMINISTRATION:

Thank you, Mr. Chairman. For the record, I am Andrew Clinger, Director of the Department of Administration and also state Budget Director.

I do not have prepared remarks. You can certainly ask questions. I guess the only thing that I would say at this point is that the Governor has presented what he thinks is a sound budget. Given the state's current economic conditions and the fiscal restraint that we had to show to balance the state budget, a lot of things in here we do not like either, but we had a lot of tough choices to make, and we felt that we made the best choices possible given the resources that we had to deal with. And so, Mr. Chairman, as I stated, I do not have any prepared remarks but certainly can answer questions that the Committee may have.

CHAIR OCEGUERA:

Thank you, Mr. Clinger. Questions from Mr. Clinger on the budget? All right; Mrs. Gansert, any further remarks?

HEIDI GANSERT, CHIEF OF STAFF, OFFICE OF THE GOVERNOR:

Thank you, Mr. Chair. Again for the record, Heidi Gansert. Mr. Clinger pretty much covered it, but when we put this budget together, you have to remember that we were in a hole in that we had lost about \$450 million of ARRA (American Recovery and Reinvestment Act of 2009) funds; we had caseload growth of about \$269 million; there was a loss of about \$440 million of local revenue; and we had interest in the unemployment insurance of about \$66 million, which added up to about \$1.23 billion. So, it was very difficult to put this budget together. We went through line item by line item to do the best that we could to make sure that we could fund education as much as possible.

Some of the pieces of the budget that you have reviewed would be the reserves, the debt reserves, and there is \$300 million in this budget that is based on debt reserves. That was an attempt really to mitigate some cuts to free up some money locally in the district of origin to make sure that they could use that money for operational expenses. I know that has been a sensitive issue, but again we tried to put forth a great effort to make sure that we could mitigate cuts and get as many dollars as possible to the classroom.

So this is a difficult budget. We understand that the cuts are hard, but we also think that we need to allow time for the economy to recover. And we did have some good news on Monday, which was yesterday of course, in that unemployment is still high in Nevada, but it has fallen a

bit. It is down to 13.2 percent. We also had job growth. This is the first time we have had job growth in 37 months. We have had job growth, and it is also the largest increase for one month I believe since 2005 as far as job growth.

So we have some indicators that are on the positive side in Nevada, and we believe that we need to allow time for an economic recovery. The budgets have been difficult, but we tried to put as much money as possible into education and it is a priority for the Governor. You will see, as dollars roll in, we are going to try to do as much as we can. We do anticipate that the Economic Forum will come on May 2, and with some of the positive indicators there will be some extra money above the forecast that was initially created on December 1.

So thank you and I welcome any questions.

ASSEMBLYMAN HANSEN:

Thank you Mr. Chairman. Heidi and Andrew, a question actually either of you could answer. Is it not true that the Governor was elected with an overwhelming mandate to make this budget fit, and that is exactly what you guys have done with this budget?

HEIDI GANSERT:

Thank you, Mr. Chair, to Assemblyman Hansen. The Governor believes that we need to allow the economy to recover, and so we built this budget without any additional tax revenue, although we did try to use bond reserves or allow bond reserves to be used in the districts of origin and some other pieces to reduce the cuts and create a very fair and reasonable budget given the situation that we are in.

ASSEMBLYMAN HANSEN:

Thank you.

CHAIR OCEGUERA:

Mr. Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Mr. Chair. I just need a little clarification on I.P. No. 1, the room tax. Again, the Governor is just continuing on the same program we put in place in 2009 and then also extended in the last special session I believe, or whenever it was.

HEIDI GANSERT:

Thank you, Mr. Chair to Assemblyman Goicoechea. Yes, this is a continuation. Initiative Petition No. 1 was basically an initiative petition to change statute. There was an advisory question on the budget, but I.P. No. 1 was never actually on the ballot, so I.P. No. 1 was again an initiative petition where you gather signatures and then you bring legislation directly to here. And basically, what happened last session is that this Legislature decided that they wanted to delay the funding to education and allow it to go to the General Fund for a couple years, so right now we are doing the same thing: we are allocating those monies to the General Fund; and then in two years they would go to education again, directly to education.

CHAIR OCEGUERA

Mrs. Carlton.

ASSEMBLYWOMAN CARLTON:

Thank you, Mr. Chairman, and along the same lines as the Minority Leader, I respectfully disagree. Initiative Petition No. 1 passed in Clark County with over 66 percent of the vote—that is two-thirds of the people saying “we want this money to go to education.” And in Washoe County, 57 percent of the folks on that advisory question said that they wanted this money to go to education. Now we understood last time we were in a difficult position, but we made a promise to the voters who said that they wanted this to happen, and those votes in the Senate and Assembly both passed with two-thirds majorities: 35 to 7 in the Assembly and 16 to 5 in the Senate. The people have spoken, and their representatives have spoken that this money should go to education, and so I respectfully disagree on the comment that this is just furthering what we did in the past. We actually made a commitment to folks that this money would go to education in this biennium.

CHAIR OCEGUERA:
Mrs. Gansert.

HEIDI GANSERT:

Thank you, Mr. Chair. The initiative petition is separate from the advisory question that was on the ballot. The initiative petition actually went straight to the Legislature and required that money would go to education, but also the money was reappropriated in the first two years to the General Fund. So, again, this is a continuation of that. So the I.P., the initiative petition, is separate from the advisory question. But we agree that education is a priority, and because education makes up such a large percentage of the budget, in effect this helps to mitigate a lot of the cuts that are in the budget. But it would continue the reallocation during the near term to the General Fund instead of directly to the DSA budget. Thank you.

CHAIR OCEGUERA:
Mr. Hammond.

ASSEMBLYMAN HAMMOND:

Yes, Mrs. Gansert, I have had several emails from many constituents and many colleagues in the teaching profession regarding what will be happening with the pay for performance, in particular with step increases or with education increase. I recently got an email from the NSEA (Nevada State Education Association), which said that because of the supposed decrease in the amount of money that will be . . . basically our salaries will be decreased because they are not going to consider master's, master's plus 16, master's plus 32 increases that are, I guess, budget cuts for teachers would roughly be in the category of 20 percent decreases. Could you please help me to understand this to make sure that I can relay this to others who ask me questions? I take it that this is not a decrease, from what I have understood and from what I've read, and that our salaries will stay where they are at right now and then that in the future, prospectively, we will be looking at pay for performance. So will you go ahead and explain that for the record.

CHAIR OCEGUERA:
Mrs. Gansert.

ANDREW CLINGER:

Mr. Chairman, for the record, Andrew Clinger. Mr. Chairman, through you to Assemblyman Hammond, what we have included in the Governor's Executive Budget is a salary freeze when you look at the merit salary increases. This is not a reduction to the current salary a teacher or other school district employee is receiving; it is simply freezing that salary where it is today. Typically in the Distributive School Account +budget, we budget a 2 percent increase for merit, longevity, and what they call movement on scale between the different salary schedules. We did not put that in The Executive Budget this time, so it is not a reduction to a current salary; it just holds them where they are at currently.

ASSEMBLYMAN HAMMOND:
Follow-up, Mr. Chairman?

CHAIR OCEGUERA:
Follow up.

ASSEMBLYMAN HAMMOND:

So, basically, those teachers who are finishing up their master's right now and maybe have incurred perhaps a student loan, they could rest assured that if they finish it up by May that they will be on that salary schedule for anybody who has a master's in order to recoup the cost of what they put into their education or what they put into their profession?

ANDREW CLINGER:

Mr. Chairman, through you to Assemblyman Hammond, that is correct, as long as they attain that before July 1 of 2011.

ASSEMBLYMAN HAMMOND:

Thank you.

CHAIR OCEGUERA:

Mrs. Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Chairman. I wanted to correct the record on the I.P. No. 1 room tax dollars. If I remember from the hearing we had on this in one of our budget hearings, it is actually in statute after we adopted the petition that the money was to go to the General Fund for the first biennium and then to education. It was not a decision that we made—that is the way the petition was drafted. So I believe I remembered looking at that in statute when we were holding a hearing.

If I may follow up, Mr. Chairman, on Mr. Hammond's question. To be very clear, this budget takes about \$141 million out of the teacher pay for education attainment and years of service, and it is replaced by \$20 million in pay for performance the second year; \$141 million is gone and replaced by \$20 million.

These budgets are very difficult. The K-12 budget is really hard to talk about, I think, because it is in so many different facets and categories of the budget. One of the things I wanted to just ask Mr. Clinger—and we have been through this through many hearings, and I think it is good for this body to be able to put all of it together—that if I add up the basic support cut, the 5 percent teacher pay cut, the PERS (Public Employees' Retirement System) equalization cut, the \$141 million cut, the cuts to the class-size reduction and full-day kindergarten, and the cuts to the categorical funding of career and technical education and others, and then I also factor in the cut to the districts with the use of the school construction dollars, I come up with about \$1.1 billion or a little more. I just wanted to make sure we are in agreement that you can literally add up those line items, and that is what you come to.

ANDREW CLINGER:

Mr. Chairman, if I may respond. Mr. Chairman, through you to Assemblywoman Smith, I guess I would start by saying it depends on how you look at it. To go back to the merit increase suspension, you are correct, and it is actually on the last page of your document. It is the second line item in there. It shows a reduction of \$142.6 million on that line item, but I guess what I would point out is that is actually additional money that we would have put in the DSA based on projected growth and merit and the other education funding that we did not put in. So it is not a cut from current levels: it is funding that would have been in there that we did not put in.

ASSEMBLYWOMAN SMITH:

May I respond, Mr. Chairman, before we go on to the next one?

CHAIR OCEGUERA:

Mrs. Smith.

ASSEMBLYWOMAN SMITH:

I guess the question is when is a cut a cut. But if you look at what we have been paying teachers and what has been in our process, that \$141 million is salaries that would not be there now that used to be there for teachers, for years of service and for education attainment. So if you are anywhere in your education process and you do not get there by July 1, you may have been in the district for ten years, and you are not going to get that pay that has been in the budget previously.

ANDREW CLINGER:

Mr. Chair, through you to Assemblywoman Smith, not to be argumentative on this, but again, this is mechanically the way we build the Distributive School Account budget. We take the base salaries that the districts provide us for fiscal year 2010 and then we roll those up by 2 percent each year to account for the merit increases. So, again, it is not a salary cut from where they are at today, but it is a cut from where they would have been under the normal process if they continued on scale and movement, the slides, if you will.

ASSEMBLYWOMAN SMITH:

I think we are in agreement on that. It is just semantics to some degree. So the other items that I discussed, the 5 percent pay cut, the 5.3 percent PERS equalization cut, the reduction in class-size reduction, and the capital reserve money, we are on the same page on the totals of those cuts.

ANDREW CLINGER:

Mr. Chairman, through you to Assemblywoman Smith, no, and I will point to the use of the excess debt reserves: that is not a cut to the operating accounts. Again, what we are asking is that those funds be able to be transferred from the debt reserves into their operating to avoid, in this case, \$302 million of additional cuts. So it is really cut avoidance in this case.

ASSEMBLYWOMAN SMITH:

May I continue Mr. Chairman?

CHAIR OCEGUERA:

Mrs. Smith. But we are not going to have a back and forth between you and him all night.

ASSEMBLYWOMAN SMITH:

Let me clarify this last one and then I will allow someone else the opportunity.

I would guess if you ask the districts, they would consider this \$301 million a cut, because that money is being swept from their reserves, and it is replacing money that would normally have been given to them by the state in state school support in some fashion. So, again, that is what makes this budget hard to talk about, because there are so many different accounts and budgets and funding mechanisms. But I would say that the districts probably feel that this \$301 million, Mr. Chairman, is a cut most any way you look at it, and I guess on the technical side, we agree, but I think it is a cut.

CHAIR OCEGUERA:

Mrs. Gansert.

HEIDI GANSERT:

Thank you, Mr. Chair. If I can just add: When we looked at the salary adjustments, 70 percent of the cuts to education are in salary adjustments, and what we were trying to do is treat school district employees the same as state employees, and to do that, the first thing you do is freeze what they are making. So while we talk about whether we cut \$142 million or not, that actually would have been an increase, so we said, "We are going to freeze you exactly where you are like all the other state employees." And then we said, "The state employees right now have a furlough that is worth about 4.6 percent, we are going to do a salary adjustment or cut of 5 percent across the board, so whether you are a school district employee or a state employee, if you are a social worker or a teacher or you work in the cafeteria, it is all going to be 5 percent."

The other thing we did is when you look at the PERS contribution, the contribution for retirement, state employees right now contribute 50 percent, or half. We knew that was a big jump, so we said, "Well, how about if school district employees contribute 25 percent, half as much as a state employee, in an effort to put some money towards their PERS contribution?" Right now, the taxpayers pay all of the contributions for their retirement, and for state employees, each of them pays half of the share for the retirement contribution. So this is an incremental step for them; it is not exactly equal to state employees, but we were trying to move all school district employees into the same range as a state employee. Thank you.

CHAIR OCEGUERA:

Thank you, Mrs. Gansert. Mr. Hickey.

ASSEMBLYMAN HICKEY:

Thank you, Mr. Chairman. Through you to Mr. Clinger, in putting together this arguably very difficult budget, did you look at some of our neighboring states in the budget reductions that they have had? Did you study them? Are there some comparisons to what is going on, say to our neighbor to the west or up in Washington State? I am just curious.

ANDREW CLINGER:

Mr. Chairman, through you to Assemblyman Hickey, I am part of what is called the National Association of State Budget Officers, so we are always exchanging information and ideas on how to make budget reductions in these difficult times, because there are many states that are going through the same thing we are. I think unless you are in North Dakota, perhaps, every state is going through a similar situation to what Nevada is going through. I do not have necessarily anything specific that I can point to that we did in the budget, but we certainly do share ideas through our organization.

CHAIR OCEGUERA:

Mrs. Dondero Loop.

ASSEMBLYWOMAN DONDERO LOOP:

Thank you, Mr. Chair. I would like to know then, after going through this budget, where this puts us in the national average per pupil.

ANDREW CLINGER:

Mr. Chairman, through you to Assemblywoman Dondero Loop, it really depends on who you ask because in looking at the national rankings and depending on what your source is, you are going to get a different answer. It is difficult to do a ranking prospectively on fiscal years 2012 and 2013 compared to other states, because you do not have the comparable data to look at. The most recent data that we were able to pull out is from the National Center for Education Statistics (NCES), which put Nevada at 24th compared to other states. That same organization, when you look at graduation rates, actually puts Nevada at 50th, and the only reason we are not at 51st is because South Carolina did not provide data. Otherwise, I am confident we would have been 51st.

CHAIR OCEGUERA:

Mr. Kirner.

ASSEMBLYMAN KIRNER:

Thank you, Mr. Chair. Mr. Clinger, I am trying to get a handle around DSA, and so I could use your help here. I was looking in the "2011 Nevada Education Data Book," and it said that the 2007-2009 funding jumped 19.8 percent over the previous biennium, and in 2009-2011, it said that the DSA jumped another 10.1 percent, for a total of a 39.9 percent gain from the 2005-2007 biennium. That seems like a substantial gain. Are those numbers reliable from the data book?

ANDREW CLINGER:

Mr. Chairman, through you to Assemblyman Kirner, I am sure they are. I have not looked at those particular data. You can just go back and look at the basic support data, and if you go back and look at basic support per pupil adjusted for the number of pupils that we are serving, between 2007 and 2011, there was a 10.8 percent increase over that period of time. I do not have the specific data that you are referring to, but there has been a significant increase in basic support if you go back and look over time.

ASSEMBLYMAN KIRNER:

Follow-up, Mr. Chair?

CHAIR OCEGUERA:

Certainly.

ASSEMBLYMAN KIRNER:

So again, I am working with the DSA here. In your recommendation, the Governor's recommendation, you have moved class-size funding to the block grant. The block grant is not part of DSA, is that right?

ANDREW CLINGER:

That is correct. The block grant is not counted, and class-size reduction, even currently, is not counted as a piece of the DSA, or what we refer to as the basic support funding. In fact, if you look at all of the state and local funds that flow through to the districts, this would not count the federal funds they receive. But if you look at state and local funds that flow through, in fiscal year 2012, the funding per pupil is \$7,012, a significantly different number than the basic support calculation.

CHAIR OCEGUERA:

Miss Woodbury.

ASSEMBLYWOMAN WOODBURY:

Thank you, Mr. Chair. Over the last decade we have seen huge growth in enrollment, especially in the south. I am wondering how our spending has been able to keep up with that enrollment.

ANDREW CLINGER:

Mr. Chairman, through you to Assemblywoman Woodbury, our enrollment growth from fiscal year 2007 to fiscal year 2011 was actually 2.25 percent, and over that same period of time, the basic support per pupil actually grew 10.8 percent, so we have actually outpaced the enrollment growth with the funding per pupil.

CHAIR OCEGUERA:

Mr. Sherwood.

ASSEMBLYMAN SHERWOOD:

Thank you, Mr. Chair. The testimony that you have given us so far, as I understand it, 70 percent of the reductions would be predicated upon collective bargaining concessions, is that right? About 70 percent?

ANDREW CLINGER:

Mr. Chair, through you to Assemblyman Sherwood, that is correct.

ASSEMBLYMAN SHERWOOD:

So the other 30 percent would be money that would come through the specific school districts, and if that is true more or less, each individual school district finds money in a different way, maybe in purchasing. I have heard stories from constituents who are teachers that are saying that they think they may be overpaying for photocopiers or computers or whatever. Just to understand the process: the Governor does not make the budget at the line items, right? And so if the district wants to come up with that 30 percent themselves somewhere else, or maybe come up with 50 percent and tell the specific unions that they work with, "Hey, we will give you concessions here because we do not need whatever from whichever account," is there flexibility for the individual school districts to do what they have to do from whatever account they choose to do it from?

ANDREW CLINGER:

Mr. Chairman, through you to Assemblyman Sherwood, that is correct. What the state provides is what is called the state basic support funding guarantee. We provide that funding to each school district, and then they set their own budget at the district level on how they are going to allocate those funds and what reductions they are going to make to meet the basic support guarantee that we provide.

ASSEMBLYMAN SHERWOOD:

Follow-up, Mr. Chair? I have heard from some constituents, and it has been troubling, where they are saying the school has already decided that they are eliminating nine positions, and we are losing the music program or the art program. How much flexibility do the districts have to work with the specific unions or the unions have on concessions, so that we do not just automatically default to we are losing the music program or we are cutting nine people?

ANDREW CLINGER:

Mr. Chairman, through you to Assemblyman Sherwood, it is up to each individual district on how they decide. Now, obviously, through collective bargaining and negotiations, they have to deal with the salary piece of this, but again, it is up to each individual district: the state, the Governor and the Legislature, really have no control over how they make these cuts or make the reductions that they have to make.

CHAIR OCEGUERA:

Mr. Sherwood, we are going to hear from the districts here very shortly, and I am sure they will tell us how these cuts will affect them. We will go with one more question, and then we will move on to the other presentations. Mr. Conklin.

ASSEMBLYMAN CONKLIN:

Thank you, Mr. Chairman. Hopefully, I do not have too many questions, but I just want some points of clarification. Mr. Clinger, you mentioned the NCES numbers, and I track those numbers, and there is a litany you choose from. One of them includes construction costs, which we should know significantly skews our data in the per-pupil expenditures, and I am just curious if the numbers you are looking at include those construction costs.

ANDREW CLINGER:

Mr. Chair, through you to Assemblyman Conklin, I am not sure if they do or not; I would have to get back to you on that.

ASSEMBLYMAN CONKLIN:

Part of the reason I ask this question is because sometimes we have a tendency to look at this in a vacuum, and we look at it and say we rank . . . quite frankly, as far as I am concerned, you can pick it; it does not matter whether we rank 21st or 51st, but the fact of the matter is this: We have been cutting this number, the amount of money we spend in education, for the last three years. Is that not true?

ANDREW CLINGER:

Mr. Chairman, through you to Assemblyman Conklin, that is true. However, when you look at the data from the Department of Education, and in fact there was an article published on the 17th in *The Nevada Appeal* that looked at total spending, and I know that article excluded capital expenditures, and we actually went back and looked at the comparable data for 2008 and 2009, and when you looked at 2009 compared to 2010, there actually was an increase. So while we have done budget reductions at the state level, the total funding to the districts actually has increased when you compare 2009 to 2010.

ASSEMBLYMAN CONKLIN:

And that was because of?

ANDREW CLINGER:

Mr. Conklin, that was primarily because of stimulus (ARRA) funds.

ASSEMBLYMAN CONKLIN:

So, now the budget is not only going to absorb the cut we are making here, which is roughly \$1.1 billion, plus an additional loss of money from the ARRA funds. Is that what you are suggesting?

ANDREW CLINGER:

Mr. Chairman, through you to Assemblyman Conklin, there was \$139 million of ARRA funds that went into fiscal year 2009. So actually when you compare 2010 to 2009, a majority of those ARRA funds went into fiscal year 2009. In fiscal year 2010, we actually got the Ed Jobs funds, which are \$83.1 million, but part of that money is actually going to balance forward into fiscal year 2012. I think \$36.8 million of the Ed Jobs funds will actually be available to the districts in fiscal year 2012.

ASSEMBLYMAN CONKLIN:

I guess what I am asking though, and you have already answered it, is we are still cutting education, as the Chairwoman of Ways and Means indicated: we are still cutting \$1.1 billion, correct?

ANDREW CLINGER:

Mr. Chairman, through you to Assemblyman Conklin, I do not know that it is \$1.1 billion; again, it is how you slice the numbers and look at it. Again, you can look at an increase and say you are cutting from an increase, and that is a cut, but really when you compare to what the districts had from one year to the next, all I am saying is that based on the data that the Department of Education has, when you look from 2009 to 2010, there is no decrease, and part of those federal funds that were available in 2011 will actually be available in 2012.

ASSEMBLYMAN CONKLIN:

So then we should expect no change in what the districts are doing, because there is no cut: that is what you are suggesting. I am trying to narrow it down.

ANDREW CLINGER:

Mr. Chairman, through you to Assemblyman Conklin, I am not saying there is no cut, and I do not think the Administration has ever said there is no cut. We recognize that there are reductions to the school districts, but again, given the restraints that we have had to deal with and the economic conditions of the state, we put forth what we think is a responsible budget.

ASSEMBLYMAN CONKLIN:

Thank you, Mr. Chair.

CHAIR OCEGUERA:

All right, let us move on. We appreciate the Budget office and Mrs. Gansert. Mr. Clinger, we really appreciate you coming over. I do not know that there will be more questions, but you might want to stick around. I know it is a long day, but let us move on now to the Washoe County School District and Dr. Morrison and Mr. Kramer.

As you heard, there were some questions about the local impacts. I assume that you will be discussing what the local impacts may be.

DR. HEATH MORRISON, SUPERINTENDENT, WASHOE COUNTY SCHOOL DISTRICT:

I will, Mr. Chair, thank you. Good evening. It is always a pleasure to come before this body. I remember my first opportunity to come before you last year during a special session, and we seem to be always on the same conversation, and that is budget cuts. Last year when I had the opportunity to be introduced to you and answer questions and try to articulate what we were trying to do in Washoe County School District, the second largest school district in the State of Nevada and the 56th largest in the country, some of the responses I had from many of our esteemed lawmakers were interesting. I had one person comment that I sounded more like a businessperson than a superintendent. I took that as a compliment; I hope that was the way it was intended.

Also, what I appreciated was that we did not try to present our discussions of the impact of the special session and the 6.9 percent reductions in terms of trying to make things seem worse than they were, trying to rattle the saber so to speak. We tried to talk about what the cuts would mean, how we would approach them, and then to talk about the fact that we would still try to improve results, and we have tried to live up to that promise.

As I come before you this evening and we look at the proposed budget that you are considering, which is one of the largest proportional cuts to K-12 education in the country in a state that does fund education on most surveys across the country either last or next to last, I cannot sit in front of you and say that this is not going to impact the strategic plan that I have had the opportunity to sit down with many of you and share about what we are trying to do in Washoe County School District. I cannot say that it is not going to add to unemployment, because as we look at how we are going to try to handle these budget challenges, we do look at the fact that we are going to have to separate from employees. And then I cannot say to you that it is not going to impact the 63,000 children that we have the honor and privilege of serving. We

are going to do our very best to make sure that it does not, but it is getting increasingly difficult to make that commitment.

For Washoe County School District, I understand the complexities of some of the questions, because what we deal with is the cuts as they come to us from the various avenues that we get funding. So we look at the reductions from the federal, state, and local level. And for Washoe County School District, we are looking at approximately a \$75 million reduction this year and a \$75 million reduction next year, some of that from the state, some of that from loss of local funding, some of that from loss of federal funding. And that comes after having to cut \$37 million in last year's budget and cutting about \$40 million the previous three years. So there has been a cycle of a continuation of cuts and reductions in Washoe County School District.

As the question becomes how that is going to impact us, what are we going to do, we have spent just about every day looking at how to handle this, how to make our commitments to our strategic plan, our employees, and most especially our children. We are going to do the things that we think are very responsible to start with, and that is that we have been very fiscally conservative; we have put in a budget freeze almost from the time we began this year; we have let positions go unfilled. For example, I lost my chief academic officer this year to be the new superintendent of one of our neighboring school districts. I am very proud of her, but we did not fill that position. We have tried to save as much money as possible to brace for the cuts that we knew were going to come over this biennium.

We will bring contingency funds to bear. Last year we brought down our fund balance by \$8 million, and we are going to try to do that again by \$3 million this year, but that available money that we have in our fund balance is dwindling, and that is one-time money.

We are going to request to our board of trustees that we continue to increase our class sizes in grades 1, 2, and 3 by the addition of 2 students like we did last year. That is going to mean 94 fewer teaching positions. And then we will once again recommend that we defer textbooks. It is not that we do not need the textbooks; it is not that they are not needed instructional tools; but if I have to choose between a quality teacher in a classroom or textbooks, I am always going to choose the teacher.

Last year we took the single largest reduction in the history of Washoe County School District in central services direct support to schools at almost \$3 million, and we are going to increase that over \$7 million this year. That means cuts to administrators, that means cuts to central services staff, that means cuts to local support staff, such as custodial support. We are going to try to do everything we can to keep the cuts away from the classroom.

That gets us about \$35 million, and so with the threshold being \$75 million for us this year and \$75 million next year, that still leaves us \$40 million in terms of how we are going to try to approach the budget reductions that we are challenged to do. What are the options? None of them are things that we think are going to enhance the quality of instruction, none of them are going to help us try to improve upon what we are doing, and that is our core commitment.

We could recommend to our board of trustees that we engage in 30 furlough days, but certainly at a time when other countries are increasing the instructional days for their children, decreasing them in the State of Nevada I do not think is going to make our children globally competitive. We could recommend to our board of trustees, because 90 percent of our costs are people, so we certainly could recommend that we could increase class sizes by 6, which would get us about \$28 million, but that would mean we will be losing about 463 teachers, in addition to the 94 that were already proposed to cut with increasing classes by 2 in grades 1, 2, and 3. We would reduce administrators and other positions, and altogether, it would be about 500 positions in Washoe County School District.

So those are the kind of choices we are looking at; those are the kinds of things that we are going to have to consider as we look at that remaining \$40 million, if there are not revenues brought to the equation, or if we are not successful in our contract negotiations with our 5 employee associations, and if we are not able to buffer some of that with concessions.

I had the opportunity yesterday to be part of a town hall meeting that was organized by Assemblyman Pat Hickey, and it was a very great opportunity to be with leaders from all across the state and talk about where we are and where we all want to go, whether we are native Nevadans or newly arrived Nevadans. We all have a love of the Silver State, and we all recognize the tie between education and economic development. There were some comments

made that I think are important to this conversation, because I think if we are going to have this conversation, all the facts need to be brought to bear, and we need to get past myths and what I call urban legends and deal with what we really know to be true.

I had one individual approach me before the town hall meeting started who said, “You know, I have heard if you school districts just cut all your administrators and did with fewer of them, you would balance your budget.” I always say to that, “That sounds great and the talking points are wonderful, but where is your data because I know where mine comes from.” Mr. Clinger referenced the National Center for Education Statistics, and in those data, if you look at administrators to pupils, which is the best mechanism to compare all 50 states and the District of Columbia, the national average is 230 students to one administrator. There have been a lot of conversations about Florida, and I think those are worthy conversations, but Florida’s average is about 270 students to 1 administrator. The Nevada average is about 341 students to an administrator, and in Washoe County, it is 381 to 1. Will we make cuts in administration? Absolutely, but I promise you, that is not going to help us balance the budget.

I have heard a lot of conversations about how since 1959, 1960, our education budget has tripled. Well, I have looked at some of the statistics that are available and some of the sources that are being cited. What is interesting to me is that in 1959 and 1960, the per-pupil expenditure, if you look at adjusted dollars, was about \$3,100 for Nevada, which was about \$200 above the national average at the time. Compare that to 2006-2007, which is the time when most of the rankings are current, and the national average is about \$10,600, and the Nevada average is about \$8,200. So we have dropped some \$2,000 below the national average. In 2006-2007 was before Nevada had started into serious budget reductions. Again, I remind you that in Washoe County, we cut \$40 million from our budget in the 3 years prior to my arrival, we cut \$37 million last year, and we stand on the precipice of cutting \$75 million this year.

I have great respect for Assemblyman Hansen, but yesterday I heard the discussion of how can we go against the will of the people? The people clearly elected our Governor, he ran on no new revenue, and he has introduced a budget that does not introduce new revenue. And I truly respect that—but here is what else I know: The great people in Nevada elected a Legislature of a different party, and they also elected a Legislature that is not veto proof. There is an expectation, I believe, amongst people of Nevada in the rural areas, the south, the north, urban, suburban, that there is compromise and there is a balanced approach to how we look at this challenge that we find ourselves in. Do we have the courage to look at cuts? There are going to be cuts; I have had no scenario, looking as the Superintendent of Washoe County School District this year, that is not going to involve horrific cuts to what we are trying to do. But can there be a more balanced approach so there is revenue and cuts?

I would say to you, for anyone that is concerned about new taxes, there are existing taxes in the sunsets: one of them is the Local School Support Tax. It is set at 2.6 percent now, and it is going to sunset to 2.2 percent. If just that one revenue source was kept at its current level, that would mean \$111 million for K-12 education this upcoming year and \$111 million in the following year. For Washoe County School District, that would be about \$16 million to \$17 million this year and \$16 million to \$17 million the following year. That is still \$75 million subtracting \$16 million or \$17 million, but it would help. It would help mitigate the hard things that we are going to have to do in the here and now and help us prepare for a better future.

I have to say, on record, the last comment as I was leaving the town hall meeting yesterday was from a very good citizen who came up and said, “You must be so frustrated with our political leaders—every one of them.” And I said, “I am absolutely not.” I have said, and I mean this in every sincere way I can say it, to every political leader who had the courage to run for office, from our Governor to you to our local representatives, my sincere appreciation for the courage that you have shown. These are not easy times, and I always say, great leadership is not needed when times are good: great leadership is needed when times are very difficult. And they are about as difficult as we can possibly be in today.

I respect the Governor. I got into a heated discussion yesterday when someone said he must not care about education. Of course he cares about education. I had gotten to know the Governor when he was running for office; I had the pleasure of serving on his transition team; he has made education and economic development two of his highest priorities. I do not doubt at

all his commitment to education. He is facing a tough challenge; he has presented a budget that he believes is in the best interest of Nevada.

I have gotten to know so many of you on a personal level—from the north and the south, from the rural to the urban, the Washoe County delegation and delegations from all over our 17 districts—and I have had the chance to talk to you about your hopes and dreams for a better Nevada. I have been inspired by the fact that every single one of you see that to get that better Nevada, we are going to have to improve the quality of education, and we share that common love and that belief. I respect the hard decisions that you are going to have to make, and I want you to understand that just as our Governor is doing what he believes is the right thing, you are going to have to do what you believe to be the right things. I promise you that whatever is the budget, we are going to do the very best we can with what we have to live up to our commitment in Washoe County to be about every child by name and face to graduation.

With that, Mr. Kramer and I look forward to any questions you may have for us.

CHAIR OCEGUERA:

Thank you, Dr. Morrison. I just wanted to let you know that you said for the record, but everything you say is for the record. That is why that mike is on. We will go to some questions.

ASSEMBLYMAN HICKEY:

Thank you, Mr. Chairman, and through you to Dr. Morrison, I think I speak on behalf of not only people in Washoe County but in the state, I think we are very fortunate to have you and also Mr. Jones in southern Nevada at the head of the helm in this very difficult time. To your point about compromise with respect to trying to find the way to do the least amount of harm, one of the recommendations that you heard, since you referenced the town hall gathering yesterday, was to look in school district funding at doing possibly like Ohio had done in the past in suspending or exempting the prevailing wage prices on school projects. Now I know we are not building a lot of schools these days, so we are not talking about a whole lot, but when we talk about compromises, is that something that you would be willing to consider?

DR. MORRISON:

Mr. Chairman, through you to Assemblyman Hickey, and I do understand that I am on record, but let me tell you, I am fearful that we will not be doing a whole lot of school construction in Washoe County School District. Part of the proposed budget is the sweeping of the debt reserve funds to offset operating expenditures. I have tried to let everybody know in Washoe County the devastating impact that is going to have on our School District. Our School District has one way of generating capital funds, and that is the rollover bond. And this particular recommendation in the proposed budget targets those 12 school districts out of the 17 that have a rollover bond. We are one of those.

The only offsetting revenue that we have in Washoe County to do any capital construction needs is the GST, the Governmental Services Tax, and that recommendation has proposed that we take Governmental Services Tax from two school districts only, even though every school district gets Governmental Services Tax. It proposes taking 80 percent of Clark County's, but it proposes taking 100 percent of Washoe's. Again, the only way we have to generate capital funds is through our rollover bond revenue and through GST, and right now both of those would be very difficult for us to move forward with.

The recommendation to go from 100 percent debt reserve to 10 percent, we believe is going to impact our ability to go out and bond. And so we might be able to do one more bond sale, and we will have to make a decision at that time whether we move forward with desperately needed projects that we have planned; we have over \$600 million in projects that we have identified with aging schools in Washoe County School District, but we are going to have to make a decision. Do we use whatever bonds that we have available to move forward with those projects, or do we hold them in reserve so that when unexpected problems occur—a boiler blows up, a HVAC (heating, ventilation, and air conditioning) system needs to be replaced, a roof needs reinforcement—that we have monies to do that? I do not even know where to begin to comment on the prevailing wage and school construction because again, if the budget that is before you is adopted as is, I do not believe that we are going to be doing a whole lot of school construction over the next six to eight years.

CHAIR OCEGUERA:

Thank you. Mr. Conklin.

ASSEMBLYMAN CONKLIN:

Thank you, Mr. Chair. Dr. Morrison, it is interesting that we have gone a little bit down this line, but let us talk a little bit about the bond reserve and about the conditions under which many of the Washoe County schools are in. We had some delightful testimony in one of our Ways and Means hearings, on a slightly different subject, about teachers and how powerful the teachers impacted kids' lives. One of the little girls who testified, I want to say she was 8 or 9 years old, gave us a little history of her class, and while she was admiring how much she enjoyed class and her teachers, she was also talking about how the roof in the classroom leaks on their paperwork on their desks. I think it would be important for this body, because a lot of them did not hear that testimony, to know what the conditions currently are in Washoe County and, while you may not be doing construction on new schools, how you might be using that money.

DR. MORRISON:

Mr. Chairman, through you to Assemblyman Conklin, we have 102 schools in Washoe County School District. We have a lot of capital needs: we have many aging schools, and so there are constant needs for HVAC replacement, roof repairs—basic maintenance needs that are incredibly important. We have schools that desperately need renovation: they are aging, they are not at the level that is worthy of the children that we have the honor of educating. We have schools like, for example, Robert Mitchell, right in the heart of Sparks. It is a beautiful school with good things happening, but it needs to be renovated and brought up to bear for our current conditions. There is a huge need to infuse technology. We have two schools that I do not believe the traditional renovations that we do that can range between \$2.5 million and \$4 million are enough. These schools, Sierra Vista and Sun Valley Elementary School, are at such a level of need that it is probably better in the long run, and a better use of taxpayer dollars, rather than to renovate them, to bulldoze them down and build brand new schools. Not only would that be great for the children of Sierra Vista and Sun Valley, and it would put 200 construction workers back to work in Sun Valley and 200 construction workers back to work in Reno. Those are the things that we would like to do in terms of what we are committed to in our rollover bond campaign.

I do appreciate the desire to try to find additional revenue to offset the cuts; I have to say that, but again, the impact on Washoe County when this is our one way to do capital projects, is more impactful on our school district than any of the other school districts, and I know it has an impact on the 12 that have a rollover bond.

CHAIR OCEGUERA:

Mrs. Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Mr. Chairman. First I want to commend Mr. Morrison, because since I met you, you have been dealing with cuts, cuts, cuts. You have not had the opportunity to even slow down and think about anything else but cuts, so I commend you for staying and not leaving our state. And that would bring me to my point: I have a couple of different ones.

I worry about the class size of the younger kids. I'll use a personal experience of my own. I babysit a little girl who is in second grade who is currently struggling just to keep up with the rest of the class. In working with her, and I know that there are seven ways to teach a child, but I am worried about what the class sizes might look like when we continue to make these cuts and what will happen to her as a second grader already struggling. How much farther is she going to get behind? Because I think the quality of education has to really be measured, and I feel like we are setting her up for failure time and time again because we keep making choices that do not allow her to get that extra time. We are, as a family, as a neighborhood, working with her and several kids in her classroom. But I feel like we just keep setting them up for failure, and I worry about the quality. I could stick 35 kindergartners in a classroom and hope that they learn something when they leave. But second grade is supposed to be the height of one of the grades

on what sets their future. So if you could talk a little bit about that, because that is something I am going to have to go home and explain to my constituents.

DR. MORRISON:

Gladly. Mr. Chair, through you to the Assemblywoman, I am one of the biggest fans of early childhood. I think that is where we get it right and we put a child on a path to graduation, because graduation truly begins in kindergarten. Or we get it wrong, and we spend an exorbitant amount of money trying to provide interventions and support, and then too often we fail to get those children to graduation, and we could have gotten it right at the very beginning.

Our state is changing dramatically and rapidly. Since 2003-2004 when our free and reduced meals for our children in poverty served 31.2 percent of our over 400,000 children, today it stands at 41.3 percent and it is growing. Our English as a second language (ESL) learners were 13.5 percent in 2003-2004, and they are at 18.1 percent today. The reality is that the children we have the honor and privilege of teaching are coming with more challenges—absolutely able to learn, absolutely wanting to learn. I have never walked into a kindergarten class or first or second grade where you do not find little faces looking at you, and they want to soak up everything that quality teacher is providing.

But here is the reality in our state. Quality Counts 2011, which is one of the most amazing surveys of all 50 states and the District of Columbia, formed a lot of the data that we used on the Blue Ribbon Task Force to make our recommendations for improvements all across our 17 school districts, ranks Nevada as having the 51st chance for success for children. That means before they ever come into a public education setting, before they start kindergarten—and I say kindergarten because we do not do a whole lot with pre-K (pre-kindergarten), and that is part of the issue—our children have the 51st chance for success. And, yes, I understand 51st out of 50 states, but that does include the District of Columbia. That is based on two primary areas: It is based on the educational attainment of the parent, and we are in a state where a number of our citizens do not have a high school diploma, and so many parents of our children do not have a high school diploma. The other factor it is based on is commitment to early childhood: it is a commitment to pre-K, a commitment to full-day kindergarten, a commitment to keeping class sizes in grades 1 and 2 low so that the proverbial adage that children learn to read in grades kindergarten, 1, and 2 can occur, and then they read to learn later. I think we have got to get it right; we spend a whole lot more money down the road.

The United Way did a survey 3 years ago, and it found that for every \$1 we spend on early childhood across the country, we save \$17 down the road. So I appreciate your commitment to early childhood; we have a moral obligation to these children, and it is going to be a cost savings in the long run if we get it right, and we are not having to provide interventions and support.

ASSEMBLYMAN SHERWOOD:

Thank you, Mr. Chair, and Dr. Morrison. Thank you for coming. And to the last time that you spoke and they said you sound like a businessman, take that as a compliment. This time I have to tell you that you sound a little bit like a politician, and that is meant as a compliment as well.

To get back to Mr. Hickey's question about the prevailing wage, and so for the sake of argument, let us say that we came up with \$660 million in new taxes to fund the capital projects that you have described. If you could save 30 percent of that by not paying prevailing wage, that is about \$180 million less that you would have to spend, would you be supportive, if the money were there for the capital projects, of saying, "In my school district, as an astute businessman, I just refuse to pay the extra 30 percent." Would you be open to that?

DR. MORRISON:

Mr. Chairman, through you to the Assemblyman, I hope I do not offend anyone when I say this, but let me try not to sound like a politician, because if I do not know something, I am going to say I do not know. I do not understand enough about the prevailing wage; I'll be honest, I have never studied it to give you probably the answer that you would want to have. What I will say is that I believe in not creating artificial challenges. I am very much a free market type of person, and so if we could bid projects and let all of the individuals who are going to bid come forward with the best bid, then as long as we get quality, we would usually choose the lowest bid

and try to save money because the more money we could save the more projects we could do. I would be very open to that. But I truly do not know enough about the prevailing wage issue. I will certainly look at it, and especially if we are able to go out and do further projects and if this becomes a reality. But again, I just do not know enough about it to give you a competent answer that you deserve. But we certainly can look into it.

ASSEMBLYMAN SHERWOOD:

Great. Thank you.

CHAIR OCEGUERA:

Miss Neal.

ASSEMBLYWOMAN NEAL:

Thanks, Mr. Chair. Dr. Morrison, I have a question. You brought up some issues that are of deep concern to me. You started talking about the per-pupil funding and what you studied from the 1950s and 1960s about the progressive increase. My concerns are that when I looked at the adequacy study, the findings showed that even in 2006, we were 59 percent below that and we needed to increase. You described cuts that took place from 2007, 2008, and 2009, and those were very significant. One of the things in that study stated that we were at risk because we had failed to fund English Language Learners (ELL) and at-risk students appropriately. When you characterize that for me, that tells me right now that we were not doing a good job then, that those students were always at risk of losing the appropriate kind of education that we needed to give them. So what are your solutions in order to deal with the situation right now? Because to me this is very negative and it is disturbing, because my constituents represent a large majority. And you have seen the shift in this district where a huge component is ELL and at-risk students, and those students are underserved and they are not getting the appropriate education that they need. So address that for me about the negative implications with this 2011 and 2012 that we can expect to see within those school districts.

DR. MORRISON:

Mr. Chairman, through you to the Assemblywoman, I know one of the questions that came up, and Mr. Clinger cited the National Center for Education Statistics and the per-pupil expenditure, I believe he said we were ranked 40th, and then there was a question whether that included capital funds. It does include capital funds where we rank 40th. If you take out capital funds, I think we rank 45th, and the last data that was available on those was from the year 2004-2005. It is very difficult, I get asked the question all the time, "What is the actual per-pupil expenditure?" There are probably 100 different surveys that you can use. Some look at just the funding from the state, some look at state and local, some look at state, local, federal, and some look at state, local, federal, capital budgets. It is really all over the place. What I know is that since I have come to this great state, I have been engaged in looking at the cuts, and no matter what the ultimate budget is, we will be cutting again this upcoming year and the year after. I think before I look at you and say, "What can you as lawmakers do?" we have to look in the mirror first. I am a big believer, and I am going back to my business roots, but Jim Collins, who wrote the book *Good to Great*, says when things are good, you look out the window, and when things are bad, you look in the mirror.

In public education, we have to look at what we failed to do as Nevada has seen a seismic shift in the population of children that we serve. And we studied this at length in the Blue Ribbon Task Force, and if you go to our website on the Blue Ribbon Task Force, there is a graph that shows graduation rates from about 17 years ago that were well above the national average, and then as the national graduation rates have slightly increased, we have plummeted. That has accompanied a dramatic shift in the number of children that we serve that are highly mobile, they speak English as a second language, and they come to us in poverty. Let me tell you as I sit before you, there is no excuse for that. Every child can learn; every child can learn at high levels: It is about the courage and commitment we bring to educating them. We have not adjusted the way we deliver instruction in this state to the level to meet the changing students that we have.

When people say run your school district like a business, I say well, what business, because that is very important to me who we would model. And I look at the medical business. A doctor does not take every patient that walks in with a headache and gives him aspirin. They diagnose, they run tests, they individualize the cure to make sure that at the end of the day, that patient is well. For some patients, it is an aspirin and it comes with a very low cost. For other patients, it is huge, very intensive surgery and medicine that comes with great cost. If you think about the fact that when a child comes to us in poverty, there are some increased costs that accompany that, and we are having a huge rise in poverty.

When children come to us speaking English as a second language, then not only do you have to teach them the three Rs, but you have to also teach them English, and that comes with additional costs. We have to do a better job changing our methodologies; we have to do a better job because too often in public education across the country, to our great shame for the children who come to school with less, we have given less at school. We have given them not always the very best teachers, not always the very best facilities, nor the very best tools, and we have to change that. But we also have to understand that as we have more and more children who come to us with these challenges, if the desire is to get every child by name and face to graduation, there are going to be increased costs. We have to justify that, and then we have to show results.

I will say I like to sound like a businessman is in our strategic plan, which many of you have had the opportunity to see, and thank you for letting me come and share that with you, where we have set targets; we have asked to be accountable to the great citizens of Washoe County; we want to have people hold us responsible for results for all children. And so last year, we were able to increase graduation rates by 7 percent, and we were able to see some good jumps with our African-American/Latino students, but the reality is in Washoe County School District today, we are graduating four out of every ten African-American/Latino students. We have to do a whole lot better with whatever funds we have available to us.

CHAIR OCEGUERA:

Mr. Munford.

ASSEMBLYMAN MUNFORD:

Thank you, Mr. Chair. Since I have been in the Legislature—this is my fourth session—I have had the opportunity to visit many of your high schools, not all of them, I think four or five. In every one I went into, mostly junior and senior classes, I noticed there was not really a problem when it came to class sizes. They seemed to be fairly reasonable, something that I myself would figure quite a luxury. Where is your class size problem? To me, it did not seem it was in the high school or secondary level. Is it maybe in the middle schools or maybe in the elementary schools? I did not see a problem, and I visited four or five of your high schools, and I did not see a problem at all in terms of numbers.

DR. MORRISON:

Mr. Chair, through you to the Assemblyman, we have class sizes right now that we are proud of. We have tried to work very hard to keep our class sizes at the forefront of providing our teachers a load of students that is reasonable, to provide the core content and core knowledge to be able to differentiate and be able to scaffold instruction to meet the individual needs of the child. Our highest class sizes are at the high school. Right now our high school classes average about 28-29. Our middle schools average about the same and our elementary schools are slightly below that. We certainly do not want to increase those. I know there is a lot of data out there about our class sizes, how they impact the quality of instruction, and I do believe that you get the best bang for your buck so to speak when you keep class sizes low at the early grade levels. So I compliment leaders in Nevada that recognized that many years ago and had the courage to put forward monies to introduce full-day kindergarten to some schools and to keep class sizes at a reasonable level in grades 1, 2, and 3.

The fear that I have as the Superintendent of Schools of Washoe County School District is that if it indeed is going to be a \$75 million cut, we are going to do everything we can, and the last resort would be increasing class sizes. But again, 90 percent of our costs are people, and so there is how much you pay your people and how many people you have, and we are going through the process of contract negotiations with our five employee associations. If you

remember last year after the Special Session, Washoe County School District was one of the first school districts in the country that was able to successfully come to contract agreements with our five employee associations, and it was able to help us not have to increase class sizes at the secondary level. If our cut is going to be \$75 million, I do not believe we will be able to balance our budget without increasing class sizes, and so that is not something we want to do—it is something we may have to do. I would love to walk our high schools with you again, because I can tell you, I just visited one of our high schools the other day and I was counting seats and bodies. It is not only what is the appropriate load for a teacher, I was at Spanish Springs High School actually looking to see physically how we can fit 36, 37, 38 kids in this class. I know it is not good for instruction, but I was just looking at the physical logistics of being able to do it. And I know my colleague and good friend Dwight Jones in Clark County is looking at similar situations as well.

CHAIR OCEGUERA:

Mr. Hardy.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. My mind is going everywhere right now, but I am going to ask a question that has to do with the DSA budget and the 5 percent reduction in teacher salaries. I have been receiving a number of emails, in the hundreds, of how teachers are taking somewhere between an \$8,000 and \$11,000 a year cut with a 5 percent reduction. Now that does not compute in any way, shape, or form, and I am not a mathematician. But the reason I am asking the question is our information states, “. . . school districts and charter schools are unable to reduce salaries by that amount through collective bargaining, the school districts and charter schools would need to reduce other expenditures as a result.” Now my question is, why are the collective bargaining units so unwilling to let others keep their jobs and take a reduction, because it does not appear to me that, in these discussions, we are taking salary reductions because of collective bargaining. Is that correct?

DR. MORRISON:

Mr. Chair, through you to the Assemblyman, I can only speak for Washoe County School District, and I have gone through one budget cycle with my employee associations and I am currently going through the next round of creating a budget. And I can only speak from my experience with our five employee associations, and that has not been the case. Last year four of my five bargaining units had contracts. After the special session I went to them and I asked if we could engage in contract renegotiations. They could have said no—they did not—they said yes. They could have gone into the negotiations and said, “Well, we tried, but we were not able to.” We were able to generate over \$11 million in savings to help defray the \$37 million that we had to cut. I can only speak from my experience having gone through one budget session with my employee groups; I did not see collective bargaining as a problem; I did not see anything but cooperation and support. Again, we are in the early stages of contract negotiations with our five bargaining units this year. They have been incredibly collaborative. I am meeting with them tomorrow. They are our partners: our employee associations helped create our strategic plan. One of the best days of my superintendency was when our teachers association called me because they had been invited to a national conference and they presented our strategic plan—not mine, not the board of trustees, ours. Some of the major groups that look at reforms across the country have said that in Washoe County School District we have some of the most aggressive reforms happening in the country. That is happening with our employees, not against our employees. And I think that is part of the reason, despite facing some very difficult budget challenges, we have had some initial successes, and I hope that is what is going to carry us through these very tough budget times. Again, in my experience, and I have done this for one year, that has not been the issue.

If I can address the other part to that, though, I think part of why you get some conflicting data is that you have teachers at different levels. You have some teachers who are new, some teachers who are veteran teachers, some teachers who would be in line for longevity increases, some teachers who would be in line for additional money for educational attainment, and so depending on what would occur—if you did what was in the proposed budget that you are

considering—the average teacher’s salary in Nevada is about \$51,000. If you did the 5 percent reduction and the 25 percent PERS, that would be about a \$6,000 reduction from the \$51,000 salary. If they were in line to get a step increase based on longevity and educational attainment, their cut could be considerably more. And that is why you are hearing figures anywhere from 10 percent to 15 percent to 20 percent—National Board certification and other things.

CHAIR OCEGUERA:

Miss Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Thank you, Mr. Chairman. Mr. Morrison, thank you for your presentation. I have a comment and then a question. In reference to Miss Neal’s student body that she was referring to, I know that you used the word challenges. In referring to those students, as a businessperson, I would ask you to refer to their challenges as opportunities because we live in a global environment, and it could be a competitive advantage for us here as a state. But my question to you is: You talked about the impact that these cuts would have as far as administrators, support staff, and deferred textbooks, but I did not hear you mention any impact to things such as the music program, the GATE (Gifted and Talented Education) program. If you can elaborate on that for me.

DR. MORRISON:

Absolutely. Mr. Chairman, through you to the Assemblywoman, first of all, let me say I look at every child that we have the privilege of teaching as an opportunity, and so I share your common vocabulary. Every child is unique, and some children come and they are ahead of where you would expect them—other children come behind. Our obligation is to get them all to the finish line. We are a state that is nowhere near where it needs to be in graduating children, and we do rank very close to last if not last in the country. So there is a huge need for us to improve the quality of education because we need to do that to have the educated workforce to bring businesses here; we need to do it because it is going to save money for our state in the long run; and, most importantly, we need to do it for 440,000 reasons, and that is the number of children we have in Nevada.

As we look at our budget, I am proud of the fact that last year as we had to address a \$37 million challenge, and I was very cognizant of and appreciate the question, “Do you look at what other school districts are doing?” I have colleagues all over the country, we talk all the time, and I ask how they are balancing their budget.

I have to share a quick story. I was in Denver recently at U.S. Secretary of Education Arne Duncan’s Advancing Student Achievement Through Labor-Management Collaboration Conference, and I was there with our teacher association president and our board chair. I was at a table with some of my colleague superintendents, and everybody was commiserating around budgets, and then they looked and said, “Hey, as long as Heath is here, with everything happening in Nevada, we cannot say anything.” So I guess I got to win that particular debate that was going on at that superintendent table.

But we all talk about how we are addressing budgets. A lot of school districts have made cuts into things like art, music, P.E. (physical education), libraries, gifted. We did not do that last year; I would be very hesitant to do that again, but again with a \$75 million challenge, we would. I have looked at, and Mr. Kramer, our outstanding CFO (chief financial officer) has given me very good cost estimates. If we reduced our music, P.E., and gifted by 25 percent—huge cuts, and we are not funding them at what we should already, that would generate about \$8 million. So will we look at it? Yes, because what I have said since I began this budget exercise this year looking at a \$75 million reduction, unless it is federally mandated or state mandated, everything is on the table. So we will look at making cuts in those programs if we have to. We will look at increasing class sizes if we have to. We will even look at closing schools if we have to. Everything is going to be brought to bear because when any citizen in Washoe County School District, any taxpayer, says, “Superintendent, have you looked at . . . ?” I want to be able to say yes.

We have a very aggressive community survey going on right now; we have had over 2,500 responses since we sent it out last week, and I have been watching with great interest the

recommendations that have been coming in. What we have is a committee so that when our citizens give us recommendations, we say, “Yes we can do that, and it is something we might be able to do this year or yes, we could do that, cannot do it this year but will look at it in the future.” Or if we cannot do it, we are saying, “Here is why we cannot do it, but thank you for your input.” We are looking at everything and we will continue to look at everything. There are no sacred cows in this budget.

CHAIR OCEGUERA:
Mr. Anderson.

ASSEMBLYMAN ANDERSON:
Thank you, Mr. Chairman. Dr. Morrison, with the proposed changes, what would a starting teacher’s salary look like in our state?

DR. MORRISON:
Mr. Chair, through you to the Assemblyman, I can only speak for Washoe County. The average starting teacher’s salary I believe is about \$37,000. The average teacher’s salary in the state of Nevada I know is about \$51,000.

CHAIR OCEGUERA:
Mr. Hammond.

ASSEMBLYMAN HAMMOND:
Thank you, Mr. Chair. I hope I articulate this correctly. My day job is also a teacher, and for the last 12 years I have walked around the halls and talked to my colleagues in the teacher’s lounge. The per-pupil average comes up often. Many colleagues say, “If we just fund this at the national average, we will be all right.” We are above the national average, and I hear the same arguments from some of my colleagues here as well. Is it not true that there are some states that actually spend less than we do per pupil and are they not getting the graduation rates higher than we are? Point of clarification: I think when you mentioned the ranking, you said 44th or 45th, but in fact Mr. Clinger quoted 24th. Talking about that, I think almost every state below us that spends less per pupil actually has higher graduation rates. What I am concerned about is not necessarily the money we are spending, but it is the reforms, the reforms I believe you also are proposing, as well as Mr. Jones. I think the reforms are necessary, and I am looking forward to those and I think you are a big proponent of those. Would they not have a bigger impact than perhaps the per-pupil average spending?

DR. MORRISON:
Mr. Chair, through you to the Assemblyman, again, the danger when you start putting out the per-pupil number is I am going to have five that show a per-pupil at this rate, and you are going to show me five that have a per-pupil at a different rate, and what does that really show us consistently? The Education Alliance of Washoe County School District created a white paper that looked at this very topic, that looked at funding, that looked at education in terms of an investment for a business model for keeping businesses and attracting businesses to our state, and they looked at a number of different surveys and information trying to compare what states spend comparable to what we spend in Nevada, what states spend less, what states spend more, and what is the cost-benefit of that. I think, pretty consistently, the only two states that show up on most statistics as spending less than Nevada, on a consistent basis for per-pupil, are Utah and Idaho. Usually it is Nevada-Utah-Idaho, Idaho-Nevada-Utah: it is pretty much neck and neck. I think you can look at a lot of different factors about per pupil, and you can look at the students that we serve; you can look at the realities of our states.

What I say often is that our education system in Nevada has produced the workers that we have needed in Nevada up to this point. There have been two states in the country that have created a middle-class standard of living for the majority of its citizens without having a college education citizenry. Truth be told they have not had to have a high school educated workforce as well, and that is Michigan with the automobile industry and Nevada with the gaming industry. That is not a criticism: that is a reflection of where we have been. I look at where we need to go, as I know you do as well.

I certainly think we need to look at funding. I think you cannot just look at reforms without looking at the funding, but I do not think that you can look at reforms without looking at the funding. As I said before, I think this is going to require a balanced approach. I think certainly there are things that have to change about education in Nevada. I think there are some excellent reforms that have been introduced. You have shown tremendous courage and foresight in some of the things that you have passed, but if they come without additional funding and just cuts, I worry if they are going to be successful. If you see fit to just do the funding and do not look at fundamentally changing some of the ways we go about the business, then I share your concern: I worry about whether we are going to increase the productivity and the results here in Nevada.

I believe we have to look at the funding; we have to look at the way we are doing things; we have to look at the courage of having reforms. I am very proud of the reforms we have put in our Washoe County strategic plan: they are aggressive, they are comparable to anybody else in the country in terms of what they are trying to do. We have done that with our people, and we created our strategic plan not with the expectation we were going to get any more money from the state over the next few years, but also with our current funding we are hoping not to get significantly less. So I believe we need the reforms, but I also believe we need the funding.

ASSEMBLYMAN HAMMOND:

Thank you for your answer. The reason I bring this up though is that we have had story after story of students who talk about how the roof is leaking or they are worried about their teacher leaving, and I have heard story after story from students who will tell you the same thing. Year after year we keep getting more technology, more technology than perhaps we can use in the classroom. Every teacher gets a SMART Board, and many of those SMART Boards sit in corners unused because of a lack of knowledge of how to use them. A lot of our money is going to things that we are not even using, and that is why I am concerned about per pupil; we could actually spend that money a little bit more wisely in the classroom.

DR. MORRISON:

Mr. Chair, through you to the Assemblyman, I realize that this is an interesting conversation about technology. We are, for the most part, and I am looking around this room and, except for Ms. Neal, who might be a little younger than me, we are in the world of being digital immigrants—that is our world. We get a smartphone, and the phone is a lot smarter than most of us. Our children of today, from the time they come into kindergarten, are digital natives. They understand technology. If you see two students at the local mall, I promise you they are sitting next to each other and they are texting. They are texting each other; why they cannot talk, I do not know, but that is the world of our children today. If we do not adjust to that, we are going to miss the same opportunity that we missed in Nevada as our student population started to change—we did not meet their needs, and now we are playing catch-up. If we do not get in front of the technological needs of our children, I fear that we are going to miss that opportunity again. Again, I always look in the mirror first before I look out the window. I think too often we put tools in front of our teachers and say, “Here is this wonderful SMART Board, it is great, have at it,” and then we fail to provide the professional development that our teachers need. I think when you put a great teacher in a classroom, you give him tools—whether that is an appropriate textbook or a SMART Board—then you see amazing things happen. We need quality teachers. We do need to invest in technology, but if we do the investment in technology, we have to provide the professional development that goes with the tool. Otherwise, that SMART Board just becomes an expensive white board.

ASSEMBLYMAN HAMMOND:

This is where I think reforms are important, especially when you give them model empowerment schools to let the stakeholders talk about what is necessary in their particular schools. Year after year, principals will tell me that they all of a sudden will receive extra funding at the end of the year; they are not told where the money comes from, so they do not know where. It might be a block grant from the federal government; it may not be. But all of a sudden they will have money, and they are told they need to buy computers. The retort is, “We just got computers last year; can we buy textbooks?” and they are told no. I think the reforms

are necessary, especially in the area of flexibility to let the individual schools or areas talk about what their needs are, and that is where I think we are going to get the most out of reforms.

DR. MORRISON:

Mr. Chair, through you to the Assemblyman, we completely agree on that point.

CHAIR OCEGUERA:

I have seven lights on. I am going to take those comments, and then we are going to move on and let another part of the state talk. Mr. Kirner.

ASSEMBLYMAN KIRNER:

Thank you, Mr. Chairman. I am going to make a comment first. I think the strategic plan that we have in Washoe County is a wonderful thing, and I appreciate the effort you put into that and the accountability that comes with that. But I would like to focus you back on the Governor's recommendation on his budget, specifically the block grant. His intention I think is to provide flexibility to the district. I would like to get your perspective on the block grant.

DR. MORRISON:

Absolutely. Mr. Chairman, through you to the Assemblyman, I appreciate that very shortly after the election, the Governor requested to meet with the 17 school superintendents, and he was very honest with us about the challenges that he was facing in trying to put together a budget. He gave us a pretty good indication that there were going to be significant cuts, and he requested what things we would need to try to mitigate the cuts as best as we could. I remember very clearly all 17 of us talked about asking for additional flexibility. I am sure it has been frustrating for the Governor when in the proposed budget that you have, there is a concept of having a block grant where all additional funds outside of the DSA would go—into class-size reduction, full-day kindergarten, gifted—they all go into a block grant, and then it becomes the purview of the school district to use those funds at the local level to best determine how to meet the needs of our children.

This is one of those areas where you would think there is an amazing opportunity for agreement, let us just do it and move on. So, why would any superintendent come before you and say, "Not so fast." And I am going to say to you respectfully, Mr. Kirner, not so fast. It has nothing to do with the proposed budget; I am really trying to do this without offending anybody, but it comes with the nature of politicians and the political process. Right now there are budgets for reduced class size in grades 1, 2, and 3. There are budgets for full-day kindergarten for many of our schools. You, as political leaders, when you run for office again will have to say either you were willing to fund those or you made reductions to those programs. That becomes very difficult, because as many of you who have attended the Stand Up for Education meetings led by our parent leaders for education in northern Nevada know, we have a lot of citizens who care about education; they have been very vocal about things such as reduced class size and gifted programs, and you have to say either yes, I supported a budget that kept them at their current level, or I supported a budget that reduced those things that you, as citizens and parents, enjoy.

My concern, and I think I speak for 16 other school superintendents, is when you put it into a block grant, and already in this budget that block grant has been reduced by \$19 million, in the next budget it will be reduced again because you get to say you reduced the block grant, but the school district got to decide what to do with it. We are putting everything in a bucket, but we are just making the bucket really small. And so you get to say that you did not vote against class-size reduction; you did not vote against full-day kindergarten; you did not vote against gifted; you just voted to reduce money that is discretionary money for the school districts. We have to stand in front of groups of people and say yes, we reduced full-day kindergarten, or yes, we reduced class size, but those are the realities that we have presented. To me, the biggest reason why we are not in total support of that block grant is for that reason: it becomes a very easy target in this budget cycle that has already reduced it by \$19 million and future budgets.

We put out suggestions that if you were somehow able to keep the money in early childhood and then we had discretion within that, I would love to be able to say, "There are some areas of my school district that as much as I would like to have reduced class sizes, I might consider increasing those class sizes at the early grade levels by some so that I could do more full-day

kindergarten, more pre-K at my schools more impacted by poverty, mobility, and English as a second language. I would like the flexibility, but on the record, I am worried about when it is a block grant, when it is one bucket, that bucket getting reduced this upcoming legislative session and legislative sessions to come.”

CHAIR OCEGUERA:

Mr. Hambrick.

ASSEMBLYMAN HAMBRICK:

Thank you, Mr. Chairman. Doctor, you have been talking in the past several minutes about how the educators are going to have to get into the digital world to match what these youngsters are doing. I think we are all amazed at what these kids can do in kindergarten sometimes. But as we go forward, I am also concerned, when the Governor had his State-of-the-State message, he brought up a subject that we are all kind of sensitive about, which is social promotion. We need to start having great teachers and we need to let these teachers get the administration away and get them running full steam, and they are going to have fun doing it, but we have got to let these kids know that we expect excellence from them as well. I do know the stats for Washoe County in the social promotion area, but I would like to have you address for a few moments if you would, the social promotion aspect of these reforms you are coming forward with.

DR. MORRISON:

Mr. Chairman, through you to the Assemblyman, I share the Governor’s passion for wanting to end social promotion. I think he was absolutely right to identify the early years in looking at grades 2 and 3 as benchmark years. If we have children leaving grades 2 and 3 not reading at level, then the likelihood that we are going to graduate those children diminishes precipitously. I think there is a lot of research out there later on that talks about what are the ramifications and cost benefits of social promotion when it comes to an eighth grader per se. A lot of times it is not the educational attainment of the child. You have an eighth grader whose grades may not be very good, but they are just not doing homework, not doing their assignments, but you look at their state test score, and they got a very high score. We have to figure out why that is, and then we have to work in conjunction with the parent, and then we have to decide if it is better for the child if we give that child a better chance to go on to graduation if we move them from eighth grade to ninth grade as opposed to keeping them in eighth grade.

I think it is a much different conversation at the early childhood years at grades 1, 2, and 3, and I share the Governor’s passion for that. The Governor cited Florida as a benchmark state for ending social promotion, and I have said before that I think we can learn a lot from Florida and we should learn a lot from Florida. But here is the issue: just by saying we are going to end social promotion does not mean that we are going to have smarter kids by grade 3. It means that we are going to have to either do more proactive things to get kids to be able to read at level by grade 2, or we are going to have to be ready to provide a lot of interventions and support so that we can meet their needs when they are not reading at grade level by grade 2. Remember, that survey I shared with you says that according to Quality Counts 2011, our children start already behind—51st in the country. So they come to us with a lot of needs—opportunities, but challenges.

When I look at Florida and I say, okay, they ended social promotion; what did they do? Florida has one of the highest commitments of full-day kindergarten in the country; we have the 50th commitment in the country. Florida has the second-best commitment to pre-K in the country; we have the 51st highest commitment to pre-K. Those opportunities to help children learn to get where they need to at the years they learn the very most, we are missing that opportunity. If we are going to get serious about social promotion, I can guarantee we are going to try to do that in Washoe County. Even last year, cutting \$37 million, we increased our full-day kindergarten programs, and we increased our pre-K through grants and other mechanisms. That is what we have to do. I think we all share that passion; we all understand why it is important, so I think we need to stop social promotion, but we need to do the things that are going to provide our teachers the mechanisms to be able to put students in the third grade reading at grade level.

CHAIR OCEGUERA:
Mr. Goedhart.

ASSEMBLYMAN GOEDHART:

Thank you, Mr. Chair. Speaking as a parent whose youngest is 24, so it has probably been several years since my children both graduated from high school, and I do have one attending UNLV. You are an outstanding superintendent, and we are fortunate in Nye County to have an outstanding superintendent too, but he let me know that he is going to be retiring shortly, so we are going to really miss him. Even with all of that, with our kids going to small rural schools, we only have a few grades with 20 to 30 kids per class, we could see dramatically the difference between a good educator and a bad educator. We had a good educator; the kids were excited; they were coming home with the homework. They had an underperforming educator, and the kids just stagnated, and we made sure that those kids did not get behind during that grade level. We saw such a difference that the educator makes, and if we are truly going to put our kids first, if they are truly going to be our future, then we have to do a better job not protecting underperforming and nonperforming teachers. It sounds cold, but guess what, the alternative is even worse. And that is failing our mission to have our kids have a super education by motivated teachers that can perform. And in some of those classes to where those kids were with a nonperforming teacher, their whole lesson was to teach the rest of the kids. And I know the motto is, "Leave no kid behind," but how about "Leave no child unchallenged," even if that means granting them vouchers to schools that could have accelerated programs for kids that are really excelling in certain areas? When we talk about education, to talk about education absent the true meaningful needed reforms, we are not going to go ahead and fix a broke system, we are going to fail to fix a broken system. I want to know what your thoughts are on that.

DR. MORRISON:

Mr. Chair, through you to the Assemblyman, I think we agree on two out of your three points, and we can talk mostly about the point we might have some disagreement on. First of all, let us start by acknowledging your outstanding superintendent. I have great regard for, I call him "The General" but he reminds me he was a Colonel; he is the president of our Superintendents' Association, so I do call him "The General," and he will be missed. He has been a true leader in Nevada and a friend and a colleague, so we share that regard for the Superintendent in Nye County, General Roberts.

We share also a sincere agreement about the need to have quality teachers in our classroom. The number one data says what makes a difference for our children is having a quality teacher. Three years of a great teacher eliminates any achievement gap that is out there, and so we have to do the things that we need to do to make sure that we have quality teachers. Our second goal in our strategic plan in Washoe County School District is all about human capital. It is about how we recruit, it is about how we hire better. We are trying to use a business model from Southwest Airlines about hiring for attitude rather than just what is on a resume. We are looking at creating professional growth systems; we have identified what we need to do to support our teachers when they struggle; and yes, we are looking at what we need to do to separate quicker when we have a teacher that simply is not going to be able to meet the needs of our children. Putting a quality teacher in front of every child is something that we have to do.

The area I think we have some disagreement about is on vouchers. Where I absolutely concur and agree with the Governor, and we have had many of these conversations in my office, is that you want to create a level of competition. I believe you create that level of competition through quality charter schools, and we have eight charter schools in Washoe County. We do a lot to support our charter schools, and we want them to be very good schools. We also are in the process of doing something else the Governor has recommended in his reform package and that is to move toward open enrollment. We want to create academy and signature programs at high schools; academies of biomedical; academies of geothermal; academies of business, finance, and entrepreneurship; academies that focus on CTE (career and technical education), career technology, and have children be able to choose which school best fits their needs, and we believe that public competition is going to create very good benefits for our school district.

I do not agree with the concept of a voucher for several very important reasons. If you are going to have competition, you have to have competition on a level playing field, and I do not

believe vouchers create a level playing field. First of all, in northern Nevada, most of our private schools cost about \$10,000 per year. If you are going to give the per-pupil, in Washoe County it is currently \$5,200. It is going to go down in the proposed budget to under \$5,000, and so you are going to ask a family in poverty to make up that difference between less than \$5,000 that we are going to give them in a voucher and the \$10,000 it is going to cost to go to a private school. That \$5,000 may as well be \$50,000. It is not going to level the playing field.

The other issue I have is so you are going to have a private school leader competing with a public school leader, and both want the child to come to their school. Both are going to talk about the quality of their schools, both are going to talk about the excellent education, and both are going to talk about the safety of the school. Well here is what does not make it level: The child decides to go to the private school on a voucher and that child is a little hard to love, and the parent is a little harder to love. They are hard to educate; they are a little disruptive; they do not come ready to learn. The private school before a week can say, "That is it—we do not want you anymore. You are not contributing to the success of our school." And where do they send them? Back to the public school who does not have a choice, who must accept them, and, Assemblyman, we want to accept them. Taking public dollars means you take the public, and if you do not want to do that, then you cannot say you believe in vouchers.

The other part is there is a cost-benefit with vouchers. Later that private school might want that child, the public school principal might want him, but then we find out the child has special needs. We find out that the child speaks English as a second language. We find out that the child has other learning needs, and it is going to cost about \$20,000 to educate that child. They still get the voucher, which in Washoe County today would be \$5,200; if you adopt the budget that you are considering, it is going to drop below that. You do not get any more money at the private school, so they can say no, we do not want that child, and they are okay to do that. The public school has to take that child, and we want to take that child. So we are going to end up taking more children who are more costly to educate, while private schools can take less costly students to educate, offer more programs than the public school, and again, that level playing field, that fair competition, does not happen under a voucher system.

And then there are the budgetary realities that you cannot offer the voucher to children who are not getting it today: you have to offer it to all children who are currently being served in private education. Most cost estimates say that will require an additional \$100 million, and I do not know at this time when we are looking at trying to find more dollars for public education where we are going to come up with \$100 million for a voucher system.

So those are my primary objections. But competition under open enrollment, competition with quality charters, I think we agree on that 100 percent.

ASSEMBLYMAN GOEDHART
Thank you.

CHAIR OCEGUERA:
Mr. Hansen.

ASSEMBLYMAN HANSEN:

Thank you, Mr. Chairman. Heath, you are a real dynamo. I have got to tell you, Washoe County is very lucky to have you; we have had some great discussions. A couple of things we have not talked about in the Governor's budget that I think you may be in agreement on are the concept of performance pay versus the current practice of automatically increasing somebody's pay based on educational attainment levels. That, and also you kind of glossed over the whole post-probationary tenure issue. Would you elaborate a little bit on where you would like to see Washoe County go on those issues?

DR. MORRISON:

Absolutely, Mr. Chairman, through you to the Assemblyman, I am excited about a lot of the conversations we have engaged in on the Blue Ribbon Task Force across the State of Nevada as I have watched what the Legislature has looked at, what the Governor has proposed. I think there are a lot of areas that are going to purport for a better educational system to come. One of the areas of agreement is various teacher associations across Nevada have given support to

looking at the binary evaluation system. I think this is one of the major reforms that is not getting enough credit for being a major reform.

Currently we have an evaluation system in our state that is satisfactory or unsatisfactory. That does not help our teachers in terms of their professional growth, and it does not allow us to look and say, “If we are going to give more money to what we deem to be an effective educator, how do you do it?” Because right now we can either say a teacher is satisfactory or unsatisfactory. People say look at test scores. Well right now, 60 percent of our teachers across the Silver State teach a subject that is not currently tested by state tests. So how are you going to measure their effectiveness?

The first step that you have considered, and that we are moving forward with it appears, is to change the evaluation system from satisfactory to unsatisfactory to a four-tiered system: highly effective, effective, minimally effective, and ineffective. That is going to open up the doors to truly have those kinds of conversations. How do you compensate more our highly effective teachers? I think that is going to be an amazing conversation. Right now in Washoe County School District, we applied for what is known as the Teacher Incentive Fund (TIF). There were 63 of these grants given across the country; we got the 10th highest ranked grant in the country; we are working in partnership with our teacher association, and we are looking at—we stay away from the term “merit pay”—but we look at pay for performance using student test results, using how do you compensate for teachers who go to schools that are hard to staff, how do you compensate teachers who fill hard-to-staff roles such as special education or math or science? We are looking at all of those, and we have some amazing conversations and there are more to come.

Washoe County School District presented a BDR (bill draft request) for your consideration on the probationary time period for teachers, and we recommended that that time period go from one year, which it basically currently is in statute, to three years. We have said that puts us in alignment with 36 other states. We are excited about that, because we believe that is going to give us more time to truly evaluate employees fairly, make sure that we are giving due consideration to keeping the highest quality teachers so that as they continue in their professional careers, and as we do more to train them and to give them tools, that we are going to be making investments. That is really what a teacher is: it is an investment. People think that you sound like you are being soft when you say, “Listen, it should not be easy to separate from a teacher, but it should not be exceptionally difficult.” There has to be a fair mechanism where we can reward our most highly effective teachers and where we can separate from our teachers who are truly not at the level that they need to be. But we hire these people, we have invested in them, we have to make sure that we give them every opportunity to get better, but I think where everybody agrees is if we have provided support, if we have provided intervention, if the teacher is simply not at the level he needs to be, then we have to find a way to separate from that teacher. But it has to be a fair, transparent system.

ASSEMBLYMAN HANSEN:

Thank you very much. Those are areas where actually you are in agreement with the Governor’s recommendations on reforms. Thank you very much—excellent.

CHAIR OCEGUERA:

Mrs. Benitez-Thompson.

ASSEMBLYWOMAN BENITEZ-THOMPSON

Thank you, Mr. Chair. So when we talk about cuts and what cuts are and how cuts are defined and how much cuts add up to and when is a cut a cut, just to be clear, I think there is a lot of fancy footwork around these numbers, and some might even argue a sleight of hand. For the residents of Washoe County and for those who have children going into the Washoe County School District, you will face \$75 million worth of cuts over the biennium if the Governor’s budget passes as is, correct?

DR. MORRISON:

Mr. Chairman, through you to the Assemblywoman, yes, we would face a \$75 million reduction this year and a \$75 million reduction next year. Again, to be totally clear, that is not

because of state funding only: it is loss of federal, state, and local funding. You make up a loss by 100 percent of all the Local School Support Tax, but you make up one-third of the loss of local property tax. We take two-thirds of that loss. We are seeing a lot of our reductions through loss of local revenue. At the state level, the cuts are in excess of \$600 million to the DSA; it is in excess of \$350 million with the debt reserve being drawn down to 10 percent and swept; it is a \$120 million repurposing of the room tax money; and it is a \$19 million reduction in the categoricals that would be put under the block grant, so it is in excess of a \$1 billion cut.

CHAIR OCEGUERA:
Mrs. Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Chairman. Dr. Morrison, thank you. As usual, you have brought everything to a level that is very real to all of us, and as you well know and you stated it several times, you can state the numbers any way you want to state them. But I was looking in the document that the staff worked off of tonight, and in looking at the per pupil, the basic support that the state provides, I think that is a very important number for us to look at. One of the points I wanted to make, and I think you said this in the beginning of your remarks, is that we have never really grown in the boom times. When I look in our own document, the per-pupil support has stayed pretty stagnant: it started to go up a little bit and then went back down in these last cuts. I think that is what I heard you state: that over time, when we were doing well, we did not do well in this area. The total amount we spend on education has gone up because enrollment exploded, and I am not sure that was ever stated tonight. If you look at the amount of money the state has spent budget over budget, you see large growth in what we spent because we had explosive growth. But when you look at our obligation on the basic support, it has stayed very stagnant and then gone back down. Correct?

DR. MORRISON:

Mr. Chairman, through you to the Assemblywoman, I believe that to be the case. I think again, as you look at spending per pupil and you look at different charts, someone is going to have a chart that looks a little bit different, but again, I look at the chart provided by the National Center for Education Statistics. Again, in 1959-1960, which is the time most people are saying that education funding has tripled since that time, on adjusted dollars, a little over \$3,100. In the year 2006-2007, which is the last number that they have, it was about \$8,200, so not quite tripling but close. But again, a reminder that in 1959-1960, we were some \$200 above the national average; in 2006-2007, with the national average being over \$10,000, we were some \$2,000 below. From 2006 to currently, I know in Washoe County we have reduced our budget three years prior to my arrival by \$40 million, \$37 million last year, and looking at \$75 million currently. I look at the work of noted economist, Jeremy Aguero, where he said when you really look at the budget that is being considered by the Legislature and you look at the total amount of money provided by the state and local funding, it is actually a reduction of some \$700 per pupil, taking it down past \$7,000. So comparing our national average currently today, it is a little over \$10,000; even if you look at state and local funding, we are still now some \$3,000 below the national average. I think there is always a conversation as to how much money is the appropriate amount of money, but I believe if you look at most statistics, you see the DSA and contributions over the last several years going down.

ASSEMBLYWOMAN SMITH:

If I may just end, Mr. Speaker, with a couple final thoughts. I like to really bring this discussion back all the time to the fact that we are not talking about a discussion here of adding education funding, we are talking about serious cuts, and even if you look at the items that Mr. Clinger and I discussed, when is a cut a cut, the items that are agreed upon that are cuts were still over \$800 million. If you add the school construction dollars, which you remarked about and, as you know, is a very important issue to me, I want your opinion about whether that is a cut. I heard one of my colleagues say earlier that we have a mandate from the last election on no new taxes, and yet we do not seem to honor the will of the voters on this issue or I.P. No. 1. And I

feel very passionate about that: if you have that opinion in one place, we should have it across the board. So I would like your opinion on whether that is a cut for you.

DR. MORRISON:

Mr. Chairman, through you to the Assemblywoman, I think the semantics of whether it is a cut, here is what I know: it hurts Washoe County School District. I hear the term we have to live within our means and, if that is true, then you should be looking in the budget that is \$5.33 billion, because that is what the Economic Forum has given us for a budget. The budget you are looking at is in excess of \$5.33 billion, and so I think there is an agreement that additional revenue is needed; the question is, where does it come from? I get asked all the time, “How can you oppose this concept of the debt reserve when it is going to mean increased reductions in K-12 funding; it means you are going to have to layoff more teachers.” Has it really come, in the State of Nevada, that we have to choose between having a quality classroom and a quality teacher? I hope not. I know we are challenged, but I fail to believe that is the choice that we are at. We cannot be at that level.

I can tell you that the debt reserve issue for Washoe County School District, and I believe we are a little different, and I can only speak for Washoe County, but remember it is the only way we have to generate capital revenue. That and our GST (Governmental Services Tax): those are the two ways. Because the budget takes it from 100 percent debt reserve all the way down to 10 percent, we believe, and we have had many conversations, I know you have heard from Marty Johnson, who gives us amazing counsel on this, that we believe that is going to keep us from being able to bond over the next six to eight years. We are going to have to replenish our debt reserve to be able to go out and do additional bonding, so we are going to have to stop many of the projects we have planned; we are going to have offset the loss of the GST, and again, I do not know why when 17 school districts get GST, we are taking it from 2—Clark and Washoe—and why we are taking 100 percent from Washoe and 80 percent from Clark. That does not make sense to me. I have heard that somehow we are going to get some of those monies back, or we will get all of those monies back, but we have not yet seen the mechanisms for how that would happen. I know it impacts Washoe County. If I somehow get to see the actual information that would show how that money is going to get funneled back, then perhaps it is not a cut; it is still impactful.

I hear a lot about the will of the voters, and I have to speak to that. In 2002, the citizens of Washoe County School District allowed us to go forward with a rollover bond campaign, and that money has been put to excellent use. We have built new schools, we have refurbished aging schools, we have invested in technology, we have done a quality job, and I compliment those individuals and this gentleman sitting next to me and our board of trustees for being good stewards of the public dollars. But those monies were to move forward with capital project needs. As we look at having to renew that rollover bond, quite frankly if this budget is adopted and that debt reserve occurs, I am not sure that we would even be able to go out and ask to have that put on the election cycle again, because we would not have the ability to go out and do any bonding for six to eight years. But even if we decided that we want to at least keep this going, I do not know how we explain to the voters, and I have tried, trust me, in town hall meetings and meeting groups of citizens to explain it, that while the actual bond itself is not touched, it is the debt reserve. It used to be at 100 percent, but we are sweeping it down. They hear that, and you have lost them at, “Well, let me explain it to you.” All they know is it feels to them like we did not do what was the will of the people. And so, I hope as you have to make the courageous decisions that you are making, I can simply speak for Washoe County, whether it is a cut, whether it is not a cut, it is devastating to our school district.

CHAIR OCEGUERA:

Thank you, Dr. Morrison. I appreciate you spending part of your evening with us; it was very informative.

Let us move to Clark County. Mrs. Haldeman, do you want to kick us off?

JOYCE HALDEMAN, ASSOCIATE SUPERINTENDENT, COMMUNITY AND GOVERNMENT RELATIONS CLARK COUNTY SCHOOL DISTRICT:

Our superintendent could not be here tonight; Superintendent Jones will actually be here tomorrow. He will be presenting on the Senate side for their Committee of the Whole. I think if he were here, and tomorrow when he is asked what I think will be similar questions, you would hear from him answers that pretty much mirror what you just heard from Superintendent Morrison. I think they have talked a lot; they have a similar reform agenda. Almost every question that was asked by members of the Assembly here today, I think you would have seen a similar response from him.

In the interest of time, what I am going to suggest that what we do is have Jeff Weiler, who is with me, talk about the budget cut impacts that we will have in Clark County School District as a result of this proposed budget. We also have with us Pat Zamora, who is a financial advisor, and I think it would be good if we spent a little bit of time talking about the impact of the debt reserve fund being taken and how it will affect us in Clark County, because those are two things that might be a little different than what you heard from Washoe County. With that, if I may, I think you would like to hear from Mr. Weiler.

JEFF WEILER, CHIEF FINANCIAL OFFICER, CLARK COUNTY SCHOOL DISTRICT:

I believe you have in the NELIS system, and there are copies of this outside and it is on our website as well, what we presented to our board. We had to present a tentative budget to our board for adoption on April 6, and it speaks to the process we have gone through going back several months now knowing the financial challenges we face. We have done online surveys; we actually did an online survey where we asked citizens and other interested parties to actually come up with budget cuts that totaled what we project we will need to cut; we actually gave them options. That was very interesting; we have taken that input that is reflected in the presentation as well.

We had school meetings, town hall meetings, we reviewed the input with our board several times, and we project, with all of the various budget numbers you have heard, that we in Clark County will be short \$400 million next year. We will have revenue sources of \$1.8 billion, and we will have expenditures without any cuts of \$2.1 billion, plus contractual roll-ups, which are step increases and the PERS rate increase, of about \$75 million. The total, which is on page 3 of the attachment, is just over \$400 million.

On page 4 of the presentation, you will see the items that we presented to our board as ways the Superintendent recommended meeting the \$411 million deficit. You can see it starts with consolidating school bell times. There is more detail in the backup; I won't refer to that, but you can certainly look at that: about 125 of our schools saving about \$10 million. We have several items in here, items 2 as well as items 6, 7, and 8 that would require negotiations with our bargaining units, but we put them in there as part of this. One is passing along half of the cost of the PERS increase to employees. We are reducing administrative office budgets, which are non-school-based budgets by 20 percent. This is in addition to the 12 percent that reduced those budgets last year. That is about \$48 million.

We are reducing textbook allocations to schools. We are cutting several specialist positions that we have, and again, we are also proposing freezing salary steps and educational increments. Those have to be bargained though, as well as passing along a portion of the health insurance cost to employees and, on top of that, reducing salaries.

Finally, we unfortunately had to propose increases in class size, and initially we targeted that at the elementary level, grades 1 to 3, by 3 kids, increasing it by 5 in grades 4 and 5, and then at the secondary level by 7. We subsequently came back, and this is on page 5 if you are looking at the presentation, revised recommendations because of feedback we got as we presented it. We made some changes in there; some of the same things are in there. You will see the yellow items that are actually what we changed; we actually changed from a salary reduction of about 7.8 percent to proposed furlough days of between 8 and 12 days, depending upon the type of employee and whether they work a 9-month contract or a 12-month contract: obviously work less months, less furlough days; more months, more furlough days. Again, that also would have to be bargained, so we proposed that, but we cannot just automatically build that in as we go forward. And even with that, we reduced the class size increase to 3 across the board, which

was still a reduction of \$70 million, and it leaves us \$69 million approximately that we still have to identify.

In total, we have assumed in our budget recommendations \$166 million in concessions from our bargaining groups. Those concessions alone save about 2,400 jobs. Without those concessions, to meet a cut of \$400 million, we would have to cut about 5,400 staff positions. As it is, unfortunately, it is still necessary for us to reduce about 1,800 employees: teachers, support staff, and administrators across the board. And just so you know, our total budget for next year, again if we cut \$400 million and go through this as it is proposed, would actually be less than it was in 2007 in total. We have added students in that time, we have had contractual roll-ups, we have had salary increases, and things like that. That is just in real dollars, not adjusted for inflation or anything, just to keep things in perspective.

You have also heard about the bond debt service reserve. In our case because our rollover authority has expired, the reserve requirement statutorily is actually not as applicable. In our case, we actually need our debt service reserve to meet our mortgage payment, our principal and interest on the bonds we have issued, over the next five years. If any of that is taken, that puts us in a position of either having to raise the property tax rate for debt service, extend our bonds for longer periods of time, which is paying property tax longer, or at some point in time, our debt service rate would start going down if it was not continued, and this would actually slow that from happening as well.

PAT ZAMORA, NEVADA STATE BANK:

Good evening, my name is Pat Zamora, I work for Nevada State Bank Public Finance and we are the financial advisor for the Clark County School District. One of the things I wanted to add is really the concept of what the debt service reserve is not and what it is. First of all, it is not any kind of guarantee to bondholders, any kind of security on bonds for the bondholders, or any kind of lien against any assets of the school district. The debt service reserve is essentially a resource that prevents the fluctuation of the property tax rate from year to year as the assessed value changes, and especially as the assessed value decreases, which is what we experienced today. I think that is a very important feature of the debt service reserve. One of the other features, although it is not the primary feature of the debt service reserve, is it provides an asset that bondholders' rating agencies know will be there, and essentially the rating that is given by a rating agency to a bond represents the likelihood of repayment. If that money is not there, the likelihood of repayment is somewhat reduced.

The Clark County School District issued some refinancing bonds this past March, and through that process, one of the rating agencies downgraded the District's rating based on essentially what I will call the background noise, or what is happening at the Legislature and the Governor's budget proposal, that the debt service reserve would be reduced. So it does have an impact; it has an impact going forward. Any reduction of the reserve reduces money that has already previously been collected and will be used for future debt service payments, and that money somehow has to be replaced. Thank you.

JOYCE HALDEMAN:

Mr. Speaker, if I could.

CHAIR OCEGUERA:

Certainly.

JOYCE HALDEMAN:

Joyce Haldeman for the record again. I know Superintendent Morrison spoke about this, and you will hear about it from the other districts too as they come forth, the fact that we have developed a vote of trust is extremely important to us. I just want to read to you a sentence that we used on our campaign materials in 1998 when we sold this bond to the public. The District prepared a document, and on the front page of that document, the end of the first paragraph said, "The bonds can be used only for the construction and equipage of new schools and bus yards, the renovation of existing schools, or the purchase of land. By law, the funds cannot be used to pay administrators, teachers, or other non-construction related costs." We had a number of people who worked on that building program in the bond campaign, some of them sitting in this

very chamber, who made that promise, and it was a question that was frequently asked. We guaranteed them that by law, the money would not be used for anything except for school construction, renovation, and the purchase of land. What we are talking about doing here today is a direct violation of that promise to the voters. In addition to the financial damage that it will do to the District, the potential of increasing property taxes in Clark County, if those monies are swept, I think that we have also damaged the voter trust, and I wonder if we will ever get them to support another bond campaign. I cannot overestimate to you how important that is to us that we maintain that voter trust. Thank you.

VICE CHAIRWOMAN SMITH:

Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Chair. I just want to say that I was one of those people who walked door to door, and I was one of those people who gave my commitment. You know, I do not care who was running for Governor, I always said those funds were not up for grabs as far as I was concerned. Those funds came at a time when there was no trust; those funds came at a time when we had to work really hard, when we did not have schools, when kids were on double sessions, when my kindergartner went to school at 1:00 in the afternoon until 6:00 at night. So on that note, I will not support that, no matter what. I would rather go home with nothing than to support that, because I spent a lot of hours on that. My entire family, my kindergartner's first words were, "Please vote for this: my mom said." Door to door, in strollers, in the rain, in the heat—I will not give on that particular issue. I have been very clear with all of the Governor's choices from day one.

Here is my biggest concern. In Clark County, we voted for that; we stood our ground; we wanted new schools; we wanted to refurbish the schools. So here in Clark County, we are going to get penalized again, with our property tax more than likely having to go up, because we voted for something in 1996 to better our community. I am concerned because I believe that property tax can be anywhere between 20 cents and 30 cents on the assessed valuation, and at the same time, I live in North Las Vegas. North Las Vegas is having some financial difficulties, and who is to say that if their property taxes do not go up. My constituents keep paying, paying, and paying over again. I do not know where they are going to get money to do that. They now have to choose between getting their kids to school, because from my understanding and my constituents, transportation is something that Clark County is having to look at as a cut. I told my constituents, "I get it." The state is taking their money; we have put them in a box; what do you want from them? But to get those kids to school sometimes, we have created a failure situation again, and I keep saying it is a failure because we are setting these kids up for failure. Parents are working two and three jobs to get their kids to school, to put clothes on their back, to help feed them, and we keep setting them up for failure.

I guess what I want to hear from you, because I need to be able to go back and tell my constituents that we did not keep our word on the bond; however, the School District kept their word because they did build all of the schools, they did refurbish those schools, and they did their parts. But as a state legislator, we did not do our part. We did not keep that word. For one, I need to tell them how much their property taxes are going up. If you have been in Clark County, in my district our property tax rose 3 percent last time, so we did not get a break, even though the average home in my district is valued at \$45,000. So people are upside down in their homes.

I just want to put it on the record what we are asking constituents to do, and let us be honest about this. I have to go home and tell my constituents all these things. Property taxes are going to go up if we take their bond money; transportation could be an issue of discussion, so how they get their kids to school when gas is \$4.00 a gallon—I do not know what we expect. And representing 11 schools in my district, they all have very different issues. The average school in my district is already over 749 students, with my high school in my district having 3,127 students. If we cut salaries, which seems to be the topic of discussion here—we have to cut salaries—well, here is the thing: we are talking about cutting bodies. So 45 students in a high school math class; how many more students are we going to have to add, because if you take those 1,800 bodies and you cut them from 351 schools, where are we going to put these

people? Are we going to be back to all these things that we told voters that we would not have to do if we invested, and the voters invested, and now we sock it to them?

VICE CHAIR SMITH:

I am not sure if there was a question in there or not.

ASSEMBLYWOMAN KIRKPATRICK:

There was really a question because I want to know how much the property tax that we have a choice to do, and I also want to know how many more students we are going to have to put in these classes. Sorry it was a long question, but folks who know me know that . . .

VICE CHAIR SMITH:

Thank you, Assemblywoman Kirkpatrick. Mr. Weiler, can you answer the property tax question?

JEFF WEILER:

We have done some projections; I know the Governor's staff has done projections. In fact, we were just meeting with your staff earlier today, and I believe they will be doing some numbers for you on that. It depends on a lot of things, primarily how those other revenues, the property tax, you know the values, how they increase or decrease, as well as our other two sources of revenue, the room tax and Real Property Transfer Tax, which have been done a lot and are very volatile.

We have used fairly conservative assumptions, and we think without a debt service reserve, with none of it there, which is one possibility I guess, that our property tax rates could go up as much as 20 cents. But again, you will probably get verified numbers on that, because you have to start projecting property tax and those other revenue sources out three to five years, which is very challenging to do, as you can imagine. But that is the ballpark we are in; again, you will hear some other numbers perhaps that may be a little more solid as your staff verifies the numbers we have provided them.

JOYCE HALDEMAN:

Madam Chairwoman, I wanted to put on the record too as you started out, we were very successful with the building program. We promised a total of 88 schools; we ended up building 111 of those. Ten of those were replacement schools, which we went into old neighborhoods where schools were falling apart, and it was more cost-effective to tear them down and replace them; so in old troubled neighborhoods, there are brand new schools. It makes a huge difference in the way students learn. We exceeded the renovations that we promised; we were able to purchase the property that we said we were going to; in every measure of that bond issue we exceeded the expectations for the voters. It does feel a little punitive as we were successful and careful caretakers of that money, that now the debt reserve that is designed to help us repay that debt has the potential of being taken away from us, and then we have to figure how we are going to meet that obligation. For us, you have heard me say this before, this is a short-term solution for the state, but for Clark County it is a long-term headache that we will have a hard time dealing with.

VICE CHAIR SMITH:

I believe that we also have Marty Johnson in Las Vegas, who after this presentation can answer some questions on the debt reserve. He represents, as a financial consultant, 13 of the districts, and we have heard in committee prior to this that if the property tax has to go above the \$3.64 amount, that that money can be forced to be paid back to the other local government or municipality that loses it. So we will have Mr. Johnson address your questions as well.

ASSEMBLYWOMAN KIRKPATRICK:

Madam Chair, may I just follow up with one other question. I want to know though if we have to start laying off these employees, how much bigger our schools are going to get. Because if you are already at 750 in an elementary school, there are a lot of challenges that come with even trying to feed them all lunch. And at a high school of over 3,000, what can we expect? I think I need to tell my constituents what is at stake.

JOYCE HALDEMAN:

Madam Chair, through you to Assemblywoman Kirkpatrick, the school sizes are not going to change. In other words, the kids who are zoned to a school will probably remain the same. As you know, we instituted an open enrollment policy so the empty seats get filled up by children who choose to go there. But the class sizes are the things that are really going to be suffering. We already have the largest class sizes in the state. When you hear the presentation that the Nevada Association of School Superintendents will give you, one of the columns on that chart will show what their existing class sizes are. We already start out right now at class sizes that are larger than anybody else in the state. When we talk about increasing class sizes—the number that we are looking at—we will have class sizes that are probably verging on unmanageable. In some of our schools that were built after the class-size reduction act was passed, those classrooms were built to hold children, first, second, and third graders, less than 20 in that classroom. Now as we are expanding that and we are getting close to 25 and 30, there physically is not enough room in those classrooms to bunch those kids inside. One of the uses of the GST money that we are now looking at having taken away from us is to modernize and renovate those classrooms so they can accommodate the number of children we are trying to put into them. So the class-size issue is a problem.

One of things I hope people will recognize is when we talk about raising class size, because it seems like such an easy way to deal with the budget, what we are talking about is laying off teachers. And so there is a corresponding teacher who is put out on the streets every single time we increase class size. And that is what this about.

VICE CHAIR SMITH:

Thank you. Mr. Sherwood.

ASSEMBLYMAN SHERWOOD:

Thank you for the work that you are doing in Clark County where my children attend public schools, and thank you, through you, to the teachers that do a fabulous job. A comment was made about the funding—if the reserves had to be tapped, what that would do for bonding. What would happen on the bonding size if you were to say, going forward, all the projects that we do, we will not do them at prevailing wage, so we will save 20 percent, plus or minus? Would it be easier to raise money if the folks that were bonding that money knew that you were not going to waste 20 percent of it because you were not using prevailing wage?

PAT ZAMORA:

Through the Chair to the Assemblyman, really it does not affect the amount of bonding that would be produced. What it really affects is the amount of projects that could be completed.

ASSEMBLYMAN SHERWOOD:

So you could do more projects with the same amount of money?

JEFF WEILER:

Yes.

ASSEMBLYMAN SHERWOOD:

Okay. Thank you.

VICE CHAIRWOMAN SMITH:

Mr. Hickey.

ASSEMBLYMAN HICKEY:

Thank you, Madam Chair. Mrs. Haldeman, I thought I heard you say bond proceeds were being used in the Governor's budget, and my understanding was that in the Governor's recommended budget he is actually talking about revenues from the bond reserves. Could you clarify that?

JOYCE HALDEMAN:

Madam Chair, through you to Assemblyman Hickey, if I said bond proceeds, that was a misstatement. I meant the debt reserve fund. Thank you.

VICE CHAIRWOMAN SMITH:
Mr. Bobzien.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Chair; a question for Ms. Haldeman. Earlier this year, the Assembly Education Committee had the opportunity to go down and spend the day with you, and we saw some wonderful programs that the Clark County School District is doing, and obviously the reform discussion runs through our proceedings this evening. We heard earlier about empowerment schools, and we had the occasion to tour an empowerment school, and I remember back as we are thinking about these cuts in context of cuts that we have already made and we have been making the last couple of years, one of the first cuts we made was the \$9 million reduction in the 2009 Session for empowerment schools. Nonetheless, the Clark County School District has soldiered on with empowerment schools. One of the things that we heard, though, from that empowerment principal, was that the money she has the flexibility to decide resourcing with is about time and people: without the money, less time, less people, less positive outcomes for students. Could you talk a little about how much money is involved in empowerment schools, and particularly at a time we are talking about further cuts. To make every school an empowerment school costs more money. If you could just give us a picture on that.

JOYCE HALDEMAN:

Madam Chair, through you to Assemblyman Bobzien, Rebecca Johnson, the principal of the school that we toured will be so happy to know that you remembered the two things that she wanted you to take away from the school tour, and that is if you want to make a difference in student achievement, you need time and you need people: those are the two elements. It is interesting as we watched our empowerment schools—that is what they do. When they have the flexibility, they figure out a way to extend the number of minutes that they have with students. If it is not with all students, it is with the students that need it the most, and they figure out a way to get more people on campus to help with those children, because it is people who teach children. Time and people really is the equation if you want to make a difference in student achievement.

The school you toured was one of our original empowerment schools. When we first started out with that model, they were given \$600 more per student. Each of our four original empowerment schools also had a business partner that provided \$50,000 a year for a period of time—I think it was three or four years. As we have gone through the budget cuts, we have had to reduce the amount of money that we have been able to do. The additional empowerment schools that we brought on, we brought on with a lesser amount of money per pupil. It is interesting, though, even as we have added some empowerment schools that are coming with no funding—they just have the flexibility that they can use with their funding—they are still trying to manipulate their budget so they can have more time and more people as they work with it.

The budget cuts have impacted our empowerment school program. They are receiving the same amount of cuts as the rest of the schools have in the district, so they are reducing their staff. The principal that you are talking about, Mrs. Johnson, I am anxious to find out what she is doing with her program because she has found a very successful program that she is able to teach students in small groups, and she did it by leveraging the funding she had for additional bodies on campus. I have actually wondered about her, wondering if she is still going to be able to use the model that has been so successful and has resulted in extraordinary student achievement. Let me have Mr. Weiler finish the answer to you about our funding.

JEFF WEILER:

Thank you, Madam Chair, through you to Assemblyman Bobzien, we started off with an investment or a budget of \$5 million for our empowerment schools back when they started the original four, and then we were able to leverage that with private foundation monies, as you may recall, in the amount of about \$14 million. The private money is finished at the end of this year. We have used it for several years and were able to expand the number of empowerment schools. We still have the \$5 million, the original empowerment money, budgeted; we are not proposing

cutting that, though we are having to look at how we can spread that across more schools and still have a benefit. So hopefully that answers your question.

CHAIR OCEGUERA:

Mr. Livermore.

ASSEMBLYMAN LIVERMORE:

Thank you, Mr. Chairman. My question goes to Mrs. Haldeman. Can you further clarify how the reserve funds were funded? I believe it was a legislative mandate in 1996 to create that was it not?

JOYCE HALDEMAN:

Mr. Chair, through you to Assemblyman Livermore, in the 1997 Session when the Clark County School District received the ability to use two additional funding sources as a part of our school construction, at the same time, there were some other requirements that were placed on the use of those bonds. One of them was the development of a committee that we, to this day, still call the A.B. 353 committee, even though that is not the correct name of it, but that was the number of the bill in 1997 that brought that through.

The other was what was considered at the time to be unusually high debt reserves, and it was because they wanted to make sure that there was a guarantee to the bondholders that these dollars would be paid back. So, yes, that has been in place since 1997, and it has afforded us well because we have had no problem in issuing the bonds; we have had a very high bond rating as we have gone through this process; it has been a very successful process for us. And now as we are entering the end of our bond program, it is necessary for us to use those debt reserves to pay the actual mortgage, if you will, of the bond proceeds that we have borrowed.

CHAIR OCEGUERA:

Further questions? Mr. Sherwood.

ASSEMBLYMAN SHERWOOD:

Thank you, Mr. Chair. This is a little more long-term question, but I could not help but think of the question that the Chair asked at the beginning: Remember the education that you had that brought you here to this Assembly? I grew up in King County in Washington State, and King County has 1.875 million residents in their county. Clark County, where I live now and my children go to school, they have 1.865 million, so comparable size. In King County one of the differences, and this is the birthplace of Microsoft, very high tech, very well educated, but one of the differences is, and it was touched on by Dr. Morrison when he talked about public competition and not really wanting to embrace the voucher model. In King County there are 17 school districts, and it is the same size as Clark County. In Clark County there is one school district, and I understand the history, and I have had LCB (Legislative Counsel Bureau) look at the research, and I get it that there was a reason for that at one time when we were sparsely populated, et cetera. The folks who I represent in Henderson, when we have a real holistic conversation about education, those conversations invariably lead to Henderson would like to have its own school district, and these are sometimes off-the-record conversations and sometimes on-the-record conversations at the highest levels in the municipality that I primarily represent. We would like to have our own school district. And I understand there are some issues relative to economies of scale on things like driving the bus and shared facilities. Assuming that we can work through those and change the *Constitution*, and it is a long-term thing and I know that it is not the purpose of this particular hearing, but we need to have the conversation at some point. What are your thoughts as far as bringing public competition into the teaching arena by having multiple school districts within specifically Clark County?

JOYCE HALDEMAN:

Mr. Chair, through you to the Assemblyman, this is a conversation I have not had with my new superintendent, so I want you to know that I am going to be expressing my opinion and the opinion that existed of the former superintendent, because I do not know how he feels about this. But we have had that discussion many, many times in the Clark County School District about whether it would be better to split the school district up, and I think a lot of people are concerned

about the size of the district, and one of the reasons we have moved into the areas that we have now with area superintendents is so there is a decision maker that is accessible and closer to the schools in the area, and I think a lot of people really do like the area.

Some people think that the school district is adamantly opposed to a discussion about splitting up the school district and, again, I cannot speak for the new superintendent—maybe he is, I do not know if he is or not. But the conversation that we have had that always stops us in that conversation is a conversation about how would you do it, because we are not opposed to it if, in fact, we know that it is going to improve student achievement. If there is a way to do it that you do not automatically create a district that then is disadvantaged compared to the other districts, and if you can still do it in a way that is cost-effective. Those are the three criteria that we have always looked at, and frankly, when you sit down and start deciding how you would draw the lines, it is pretty difficult to do it in such a way that you do not create a district that would be a lesser-than district. And so when you talk about creating competition, that is an important thing, and we recognize that that does give a lot of advantages to a lot of things. But if you create a district that nobody wants to teach in and that people do not want to send their children to school in that district, and they choose to move to a home that is on the other side of the street of that district, then you have created some problems in a community that are more far reaching than whether or not you split the district.

And one of the other things that I think we always have to keep in mind is the economies of scale partly, but other things also: it is not going to save money to split the school district. And so if the goal is to save money, then that is probably not the way that you would want to spend your money. If you are looking at ways to spend extra money and you want to make a difference in student achievement, I would say take a look at class size. In our current system, I think that is the thing that would make the biggest difference in improving student achievement is improving the size of classes.

So, that is a conversation that has been had in this body before, and every single time it has been had, I think that the brakes have been put on it because those three criteria that I mentioned are very difficult to meet.

ASSEMBLYMAN SHERWOOD:

Okay, let us continue the conversation at another time, hopefully. Thank you.

CHAIR OCEGUERA:

Mr. Hardy.

ASSEMBLYMAN CRESENT HARDY:

Thank you, Mr. Chairman. Miss Haldeman, my colleagues from 40 and 25 brought up a question for me to ask. Did I hear you say that the bond monies that were allocated for school construction were all entirely used?

JOYCE HALDEMAN:

Mr. Speaker, through you to Assemblyman Hardy, no, what you heard me say is that we have completed the promises made to the voters. We still have projects that are outstanding. We have some exciting projects in fact that we are finishing up, and then we have renovation dollars that will still be completing the rest of the projects, probably within the next year or two.

ASSEMBLYMAN HARDY:

If I may, Mr. Chair, that does not answer my question. Were the dollars that were allocated through the bond, have they been used for construction—the entire money that was appropriated to the bond?

JOYCE HALDEMAN:

Mr. Speaker, through you to Assemblyman Hardy, are you asking if we have money left in the construction fund?

ASSEMBLYMAN HARDY:

Do you have monies left from that bond?

JOYCE HALDEMAN:

Yes. I said that currently we have some projects in the works and some renovation projects that are on the books that have not yet been completed.

ASSEMBLYMAN HARDY:

Okay. The reason I ask the question is that I am next going to ask is do the monies that come out of the capital reserves fund—is that a violation of the voters' trust when it comes from reserves?

JOYCE HALDEMAN:

Mr. Speaker, through you to Assemblyman Hardy, I will let one of these two gentlemen address that, because there are some legal ramifications if you take the money from the bond fund and use it for other purposes, and they have to do with federal issues.

JEFF WEILER:

Mr. Chairman, through you to Assemblyman Hardy, we had this discussion earlier today with staff at LCB about what is legal, and I believe what Ms. Haldeman was referring to was when the building program, which included all of this: the three revenue sources, the requirement for reserve, and the project listing that we committed, at least as the district, that we would not use that for operating purposes. And that was a question that was asked at the time.

Legally, obviously the laws can be changed, and that is obviously what has been proposed, to allow the debt service reserves to be used for something else, and I think it is sort of two different things: there is the legal and then there is the public perception and what was presented to the voters.

ASSEMBLYMAN HARDY:

If I may follow up, Mr. Chair, about 2 1/2 years ago you had \$1.8 billion in that capital improvement projects fund, is that correct?

JEFF WEILER:

Between the debt service reserve as well, yes, that is probably about right.

ASSEMBLYMAN HARDY:

Thank you. I guess then I am a little bit confused, because a lot of that money that was used out of that fund was utilized for computers and things other than construction projects. Is that the same or is it not?

JEFF WEILER:

Mr. Speaker, through you to Assemblyman Hardy, we do, and we have the authority legally to do this, equip schools when we build them, when we do renovations, and things like that, and that equipment does include computers, desk, and chairs and other instructional equipment as well. If that is the question.

CHAIR OCEGUERA:

In my business, they call it FF&E (furniture, fixtures and equipment), right? The same is true in the school district?

JEFF WEILER:

Yes sir.

CHAIR OCEGUERA:

So if you build something, you are able to furnish it, put desks—in my case in the fire department, we would put beds, desks, chairs, those kind of things.

ASSEMBLYMAN HARDY:

Thank you, Mr. Chairman. I am not sure that entirely answers my question, but I guess we will continue to look at that. I will talk to you off record. Thank you.

CHAIR OCEGUERA:

This will be the final question, and then we will move on. Mrs. Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Chairman. I just wanted to hopefully add some clarification to the last discussion. When we heard the bill this morning in committee that would accommodate this idea of using the debt reserve, the District brought the flyer that was used in the last bond campaign for the committee members, and on the campaign brochure, and I hope I did not miss this when we were changing places, I hope you had not already said this, but it actually says that by law, the funds cannot be used to pay administrators, teachers, or other nonconstruction related costs, which is exactly what this budget proposes to do and what was put in black and white to the voters. So I wanted to share that with the members, because we were provided this information, and this is what people like Mrs. Kirkpatrick went door-to-door with. Thank you.

CHAIR OCEGUERA:

Thank you very much. I appreciate your spending part of your evening with us. Let us move on to the Association of School Superintendents. Who would like to go first?

WILLIAM E. ROBERTS, SUPERINTENDENT ,NYE COUNTY SCHOOL DISTRICT:

Good evening, Mr. Chair, distinguished body. For the record, my name is William E. Roberts, Superintendent, Nye County School District, President of the Nevada Association of School Superintendents, and Lieutenant Colonel, U.S. Army, (Retired).

I know you people in here have been working long and hard, the hour is late and the tooth is long, so everything Dr. Morrison said I agree with.

I have had the privilege of being a classroom teacher, a coach, athletic director, vice principal, principal of three schools, and a superintendent in Nevada. I get up everyday and thank God that I live in this state, in this country. I would like to bring to your attention that in a recent Assembly Ways and Means/Senate Finance Joint Subcommittee on K-12/Higher Education, the superintendents of Nevada's 17 districts were asked to provide additional information related to the proposed budget cuts. We prepared a document that my colleague will speak to in a moment. The superintendents were asked to respond to the following questions based on the dollars that would be available if the Governor's proposed budget were to be passed by the Legislature:

1. Will school districts' class sizes increase at the elementary, middle, and high school levels? If so, what will be the class sizes in the future?
2. Will staff be reduced? What are the staffing levels before and after reductions if they are necessary?
3. If the Governmental Services Tax is taken from the district, what will be the dollar impact to your district?
4. If the Governor's recommended budget is enacted and the budget cuts take place, what cuts will districts make to balance their budgets?

A survey was conducted of all 17 school districts in an attempt to answer the above questions. Please note that the districts were asked to use the following assumptions when answering the questions. You know, the military is always big on assumptions, so we have to go with that.

First, no concessions would be given by bargaining units. As Dr. Morrison has said and others across the state, the collective bargaining agreements by each district each come up with different concessions or no concessions. Some discussions regarding the issues have been held with the board of trustees. As you know, the timeline in Nevada, May 18, is when the school districts have to file their budgets with the state Department of Education and Taxation. The Governmental Services Tax estimates are from the projected revenue of each district for fiscal year (FY) 2011-12, and we used the numbers provided by the Administrative Services Division on March 15, 2011. These numbers include both the school operating and the bond portions of the General Services Tax. Please note that the Clark County School District also provided information about the amount of money their district would lose in the I.P. No. 1 money

scheduled to go to the districts in FY 2011 if it is diverted from the State General Fund, which has already been spoken to this evening.

Also attached is a survey of the 17 school districts in March, which reflected the budget reductions that the districts have taken since 2008. There are many nuances to K-12 budgeting and its complicated process. There is no one survey that will be perfect, and each district may account for various areas slightly different and some greatly. Nevertheless, we hope these surveys will give you a broad picture of the issues facing Nevada's school districts.

I want to thank you all for your continued work, your willingness to serve our community and our citizens, and I would like to thank Mr. Goedhart for his kind words—appreciate that. We all work very hard in Nye County. We have some wonderful teachers, administrators, citizens, boards of trustees, and I am really grateful that I get to be a part of this. I am going to turn it over to my colleague from Lyon County, but before I go, I would like to let you know that the graduation rate in Nye County is right at 79 percent; it should be better, but we are still working; and our dropout rate is down to 0.8 percent, so things are not all bad in Nevada. Thank you.

CAROLINE MCINTOSH, SUPERINTENDENT, LYON COUNTY SCHOOL DISTRICT:

It is my pleasure to be here this evening, also in the capacity of the Nevada Association of School Superintendents. My colleague Dr. Roberts talked to you about the assumptions that were made for this survey, and if you have this on NELIS, you will see it has many columns. What we have asked the superintendents to do in districts is to look at the average class size currently and what would happen with the budget cuts and with the reductions: how would those be increased? If you look along and follow, of course our good neighbors in Clark and Washoe are going to feel the brunt of this the most, and they will be close to 40 for the high school class sizes. As has already been explained, the rooms probably will not even fit 40 students.

The current staff and the staff after the cuts is another area of great consideration: we mean people. And people and time are what make the difference, as we have already heard as far as the empowerment schools, but it is for every school. And our people are being reduced with the proposals.

And then the loss of the Governmental Services Tax—the proposal on that. What we focus on when we talk to our constituents and parents are the program cuts that we are looking at in each of the districts and considering in lieu of what will happen with this budget. I want to give a great compliment to the Lyon County School District Board of Trustees. They have spent 10 of the last 11 weeks meeting to really solicit input from the public about where they feel the cuts should come from: it is a lot of dedication. They have looked at consolidation and closure, because in Lyon County we also have a tremendous enrollment reduction at this time because of our unemployment. They have looked at other programming that directly affects students, and it will not affect in a good way. It will be less services for our students who are most needy. They are looking at not replacing buses again, for the third year, looking at the possibility of a four-day week, and of course, salary reductions.

These are hard considerations. I look at what my colleagues have put in their cuts; we have already done this in many of our districts several years ago. So they are easy cuts at this time. For instance, if you could look through . . . it will be either a reduction or an elimination of textbook funds, all of the fine arts classes, and in some districts they will be reducing the librarians and library time. They are looking at co-curricular activities for a reduction. Again, they will be looking at closures and consolidations just as we are, and most of all, looking at increasing class size.

The additional cuts are of interest because we do not know at this time, but we also have that deadline in NRS Chapter 391 to let our certified staff know, so it is almost a worst-case scenario that we have to anticipate at this time.

As a superintendent, I had the best of days and the worst of days this afternoon. I was able to attend a ceremony at Dayton High School for one of the high school students who has been accepted to Harvard. This is Erica Garcia—her parents did not attend college—it was quite a ceremony. We were so proud to be part of that. That was in between delivering RIF (reduction in force) notices to those teachers that are affected. Again, Lyon County does have the additional complication with declining enrollment, but we also have to anticipate if we are not successful in our bargaining.

So, on the best side, our students are achieving and they are achieving at high rates and going on to be very productive citizens, and that is a direct reflection on our wonderful staff and also our school board, the commitment. But it really burdens us to have to read the letter explaining why they are being reduced and when their last check will be and about their health insurance. Those are very painful conversations, and they have already begun.

We at first identified 74 certified positions and, thankfully, we did have some attrition. We will be delivering 57 notices in reduction finishing tomorrow. That will be 37 elementary and 20 in secondary. And those are going to increase our class sizes, and that is not good news for our students. So, again, it is great pride in Lyon County with an 86 percent graduation rate and a 0.3 percent in dropout. We are very proud of the commitment of our staff, but these are troublesome times for us. We are looking to make sure that we increase our economy and a skilled workforce in Lyon County so that our unemployment is no longer an issue.

I will certainly entertain any questions. This document is on NELIS for you.

CHAIR OCEGUERA:

Thank you for your testimony. Let us wait until the end here and we will take questions.

DR. ROBERTS:

In Nye County we tried to do a lot of things this year in preparation for this tsunami that is upon us. We have already not filled a number of positions of people who have retired that we have not replaced, we have consolidated jobs, and we have closed a school in Pahrump, with the understanding that we have some empty classrooms and a loss of student population, as well: 234 fewer on opening day. So we made the difficult decision, and all the teachers and staff at that school that we closed were rified. So they are now part of the reassignment operation that is going to go on in the next few weeks. But ultimately there will be people within that line losing jobs.

An interesting note: As part of our bond process that we passed in 2007 by the voters of the all the communities—as you know, Nye County is about 7 towns spread over 18,400 square miles roughly, about the size of Belgium, a little bit bigger—and we passed a bond measure in those communities with the understanding we wanted to replace schools mostly, and now we have an issue in the Town of Tonopah where we have spent a few hundred thousand dollars on engineering and architectural designs, committee's involvement with the town, and now we are about to go out for bid for the replacement elementary school and we have to put that on hold until we find out what the future holds. So the citizens may not get the school that we have been working so hard to produce; even though the monies were approved, we might not be able to make the mortgage payment. We will have to wait and see the decisions that come out of this body and the budget that is set in that regard.

You know, water is a very precious resource in southern Nevada, as in all Nevada. We made a conscious effort to finally AstroTurf our football field because we were burning over a million gallons of water a month just to keep the fields green so the kids could play football and soccer. We cut our water consumption by over a million gallons a month, and our bill went up \$15,000 because the water company raised our rates. If we had not done that, it would have gone from \$50,000 a year to \$150,000 a year just for water. The board was very proactive in getting it done, and now we need to AstroTurf everything else, I believe.

The costs associated with education continue to rise: power, water, sewer, fuel. You know our buses travel over 6,000 miles a day and we only have 100 buses. It is a huge area. You know in Nevada you can either not provide transportation or you provide transportation: you cannot charge people to ride the bus. We have had several citizens say one of the ways we can save money is to not provide busing. I did not think it was a good idea, because most of the kids would not come to school having an hour each way drive out in the rural areas.

And when you layoff employees in these small towns like Beatty, Amargosa, Gabbs, Tonopah, Round Mountain, Duckwater, there are no other jobs for those college-educated professionals to go to, they have to leave town. So now you have lost your volunteer fire department, your coaches, your EMTs (emergency medical technicians) in a lot of cases, and their homes go empty. I think right now there are over 4,000 vacant homes in Pahrump because the teachers, when they are laid off, they pack up and go. Then they are not paying their

property taxes and on and on it goes—they stop buying in stores. We have to pay unemployment for those teachers as well. So it is a vicious cycle.

I respect what you are doing. I think you are certainly honorable citizens. We will do the best we can with what we have, as Dr. Morrison said. We will educate every child to the best of our ability; we do not like crowded classrooms, but we will do what we have to do. I will entertain any questions.

CHAIR OCEGUERA:

We will take the questions at the end. Questions for the superintendents? They might be getting worn out. Mrs. Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Speaker. Not a question, but a comment for all of our members to acknowledge Dr. Roberts. He is leaving us, leaving Nye County, and while we have this entire body here, I want to thank you, Dr. Roberts, for the work you have done, both in Nye County and as the President of the Association. You have been so available, even though you always have to drive and commute to participate in what we are doing, and I have never heard you complain. You always provide the testimony that the body asks you for, and you work with our Fiscal staff as requested. And so I just want to thank you and wish you well, and I am sure the whole body would wish you well in your next endeavors. Thank you, Mr. Chairman.

DR. ROBERTS:

Thank you, Assemblywoman Smith. Maybe I will run for office and be one of you one day.

CHAIR OCEGUERA:

Mr. Hogan.

ASSEMBLYMAN JOSEPH HOGAN:

Thank you, Mr. Chairman. I just have a comment also. I put in six years on the Ways and Means Committee. Each biennium we go through this terribly painful process of making unreasonable cuts in budgets that really should not be cut at all. I wanted to commend our leadership for selecting such a massive space to use. We need to contain all of our legislators and all of our witnesses, but it is very fortunate because it can also contain the elephant in the room. I think it is obvious to most of us that the elephant in the room is the fiction that we have a spending problem more than we have a revenue problem. Especially for someone who is enjoying his mid-70s after years in the military, years doing all sorts of interesting things, to see a body of such brilliant people and experienced people trying to solve problems that have been misanalyzed and being surprised when we cannot come up with neat solutions that go right to the heart of the problem and get it fixed.

It seems to me that when we look at a terrible revenue shortage that is voluntary, we choose not to require and to raise taxes from some of our most able businesses in the state, and we suffer the terribly painful results. We might be talking about the lack of fire protection in the coming years—there are some dangerous problems coming up; the lack of crucial health care services that we will experience over the next year or two; and certainly, and perhaps more important than anything else, the decline of our prospects of having success in our higher education and our K-12.

I think it drives us sometimes to look for favorite ideas that we have played with, and while we look away from the lack of revenue, we may think, “Oh, I know what it is: it is collective bargaining. We have to stop that.” Or it is observing the prevailing wage, which has been the law of the land for a long time here. Maybe we ought to break up the school districts. I think those are just ventures into fantasy: they are possible, but there is not much support for those ideas. It would be much better for us to recognize the elephant, identify what the problem is, and really try to direct ourselves to that problem. So many people I have talked to, teachers, school administrators, and my constituents up and down the street, seem to know that: that is in fact the central problem. We can work a long time and a long day and never quite get it resolved unless we can get ourselves redirected to identifying the real problem and addressing that seriously. There are political reasons to shy away, but I do not think that is what we should be doing.

I, for one, do not relish the idea of inflicting on my constituents in Clark County the problems that will follow very shortly if this budget is adopted that will make their lives much more difficult, whether it is in education, and particularly if it is health care, because the results are so dire and so quick to come about. I do not want to continue on too long with this, but I think it would be good if we soon reach a time—not six months from now or three months from now—but much sooner than that, and conclude that the truth is that we have a terrible problem of lack of revenue, and that is what we ought to be addressing. Thank you, Mr. Chairman.

CHAIR OCEGUERA:

Thank you, Mr. Hogan. Mr. Livermore.

ASSEMBLYMAN LIVERMORE:

Thank you, Mr. Chairman. I would like to direct this question if I can to the Superintendent of Schools from Lyon County. Can you tell me the unemployment rate for Lyon County?

CAROLINE MCINTOSH:

Mr. Chairman, through you to Assemblyman Livermore, we have gone down from 19 percent to 18.6 percent; we are the highest in the state.

ASSEMBLYMAN LIVERMORE:

Are you not in the discussion stage of consolidating two schools into one?

CAROLINE MCINTOSH:

That was the proposal; we brought forth many proposals after those 10 meetings in 11 weeks, and honestly, I do not know that our communities could withstand that right now because of our 5 communities. That is dependent upon what the final decision is from the Legislature.

ASSEMBLYMAN LIVERMORE:

I only ask that question because my colleague from the south basically talked about a revenue problem, not an expenditure problem. This is what the Governor is trying to do; the Governor is trying to restore the economy. If you are going to tax people out of their businesses and out of their homes, how do you restore the economy and be able to fill those homes that are foreclosed and those schools that are empty in Lyon County?

CAROLINE MCINTOSH:

Assemblyman Livermore, my job is to create a skilled workforce so that we are going to be inviting businesses and they know that we are anxious and we have a skilled workforce there, and that is where I need to focus and hope that this body can help us in other ways in bringing industry to Lyon County. But I certainly appreciate your question, because we will have 3 percent declining enrollment this year and we had 3 percent last year; we will be over 11 percent in four years, and that is where the consolidation is, especially in Silver Springs.

CHAIR OCEGUERA:

Thank you. There are no further questions. I thank you all for being here tonight; I appreciate it. We have one more on the local impacts to school boards. Mrs. Merrill, thank you for being here at this late hour. Please proceed.

DR. DOTTY MERRILL, EXECUTIVE DIRECTOR, NEVADA ASSOCIATION OF SCHOOL BOARDS:

I am Dotty Merrill, representing the Nevada Association of School Boards. On the screen you will see Marty Johnson in Las Vegas. My role this evening is to pull together some of the pieces that you have heard throughout the presentations tonight and share some information with you about the Governor's proposal in the State of the State Address, and now as embodied in Assembly Bill 561, regarding what is called the debt service reserve fund maintained by school districts having rollover bonds. So Mr. Johnson and I will try to provide a kind of short duet for you sharing some information, and with your permission, Mr. Chair, I will begin, and then Mr. Johnson has additional information and comments. He is also available to respond to your questions.

Part of the document that you received this evening that I am going to be referring to you will find on page 3 and continuing over to the top of the 10-page document that you received from

your Legislative Counsel Bureau staff. You have heard a lot tonight mentioned about rollover bonds, but there may be some of you who, although you know those words, may not really know what that is all about, so we are going to give you a kind of quick big picture first.

School districts go to the voters in their counties with a plan for improving the educational environment, which may entail school construction, specific revitalization, and modernization of already existing schools. During Ms. Haldeman's testimony, you heard the very specific language in the bond question that was included for the voters in the 1998 election in Clark County. If the question is approved by the voters, the taxpayers continue paying property taxes based on the same school district debt rate that existed prior to the election. Approval of the question allows the district to issue bonds, and in some cases transfer money, for pay-as-you-go for up to a ten-year period. Issuance of the bonds is conditioned upon the ability to repay the bonds within the existing tax rate.

When the rollover bond concept was passed by the Legislature, there were concerns that the taxpayers' interest needed to be protected and that a mechanism should be implemented to ensure that school districts would not require a tax rate increase to repay these bonds. As a result, the Legislature included in Assembly Bill No. 353, previously mentioned from the 1997 Session, the requirement that "each district issuing rollover bonds must retain and reserve an amount equal to the principal and interest payment for the following fiscal year." This reserve generally comes from local property taxes and is held in the debt service reserve fund to ensure that the district can pay its principal and interest payments as required. Some districts have also used, and plan to use, bond proceeds to meet the reserve requirement. Debt service funds are created to account for the cash flows related to the bonds, which are repaid solely from the property taxes. In other words, revenues from the property tax rate levied to support these voter-approved bonds are deposited into the debt service fund, and the payments on the bonds are made from the debt service fund.

Certain school districts have voter approval to transfer monies from the debt service fund in excess of those required to pay debt service and maintain the reserve for capital projects. So among Nevada school districts, four have voter approval to only issue bonds under the rollover statute. Those are Lyon, Nye, Storey, and Washoe. Six other districts have voter approval to issue bonds and transfer for pay-as-you-go under the rollover statute, and those districts are Carson City, Churchill, Douglas, Humboldt, Pershing and White Pine. Clark is in a unique position, and you have already heard that described previously.

Although the proposal regarding the debt service reserve funds has had several different iterations, the current proposal embodied in Assembly Bill 561 is to sweep all funds from Clark and Washoe debt service reserve accounts, except for 10 percent, thereby taking 90 percent from all of the funds available on July 1 of this year. For the remaining counties having rollover bonds, the Governor's proposal would take 75 percent of the funds available on July 1, leaving only 25 percent for the purpose of repaying the principal and interest. Again, it should be emphasized that this proposal takes money that has been approved by the taxpayers and accumulated for the improvement of school facilities and their districts. You heard several examples: upgrading technology connections so that all classrooms can continue to use computers in instruction and enrichment activities; replacing a worn-out heating or air conditioning system so that the classroom temperature can be maintained at a comfortable level that will enable children to learn and to achieve.

In the State-of-the-State Address, the Governor proposed to sweep 50 percent of the debt service reserve funds across Nevada school districts and stated that these debt service reserve fund sweeps would total \$425 million. That is proven, however, to be a higher number than is available from this single source at the 50 percent. Earlier in the session, another proposal was presented which involved taking all debt service reserve funds down to an 8 percent balance, and in addition taking the Governmental Services Tax from Clark and Washoe. According to the revised proposal, it appears that approximately \$301 million would be collected. The proposal in Assembly Bill 561 has now shifted from maintaining a 50 percent requirement to a 10 percent requirement for Washoe and Clark and 25 percent for the remaining counties having rollover bonds. With information that is still uncertain about property tax projections, it is not clear what this sweep of debt service reserve funds would yield.

So, you might ask, even though it is five minutes after nine, what is the big deal here? That is not just a rhetorical question, because it is a big deal. Many of Nevada's school districts have facilities that are 100 years old. Even facilities not as old as that need refurbishments, including updated heating and air conditioning systems, repairs to their cement walls, and other modernization. If school facilities are not maintained and repaired appropriately, when the Governmental Services Tax is also swept, there are simply not funds available for making even emergency repairs. Please note that we are not talking about what some people might call "frills." We are talking about the basics like boilers, emergency repairs to roofs, air conditioning, et cetera.

So what are the broad results of this proposal looking across Nevada? School districts will have to defer their planned revitalization projects, but they cannot defer their debt payments. Some districts may discover that the remaining funds are not enough to pay the principal and interest owing. Such a small remaining balance at either 10 percent or 25 percent leaves a slim margin for error and factors that cannot be controlled by school districts. Here are some of those factors, potentially:

- What if property tax collection rates are less than anticipated?
- What if there is a future decline in assessed value?
- What if there are fluctuations in net proceeds?

When school districts defer needed repairs, what happens is that if there are catastrophic system failures, then what results are higher emergency repair costs in the future.

We also asked the question, "How will these funds be repaid?" There is no repayment mechanism in the language of Assembly Bill 561, and we are concerned about the economic conditions that will be required to repay this money in anything short of ten years. And voter trust will be impaired, which will make it difficult, as Miss Haldeman and others have mentioned, if not impossible, to pass school bond questions in the future. As has been noted during bond campaigns, voters always ask whether the funds will be used for paying salaries and operations. Up to now, school districts have been able to respond, "No." Now school districts will have to say that the funds are intended for school facilities; however, there is no guarantee that that will be the case.

Most importantly, school facility improvements, extending technology access, improving the physical plant by replacing roofs or boilers, making it possible for children with hearing problems to hear their teachers, and other improvements will be postponed, which means that students will lack the environment they need to learn and achieve.

On behalf of the Nevada Association of School Boards, we respectfully submit that this is a bad idea and unwise. To use an analogy, this is like buying groceries today with money needed next month to pay your mortgage. This is a one-time fix for the state's budget; however, school districts, schools, and local communities they serve will feel the negative impact of losing these funds long into the future. Sweeping these funds will create a hole that will need to be filled in the next budget cycle and will eliminate the ability to use these funds to improve school facilities as they were originally intended to do. In the meantime, thousands of boys and girls across Nevada will suffer with conditions that make instruction more challenging for their teachers, and that will make learning less likely for them.

CHAIR OCEGUERA:

Thank you, Miss Merrill. Mr. Johnson, can you hear us, and do you have some comments?

MARTY JOHNSON, MEMBER, COMMITTEE ON LOCAL GOVERNMENT FINANCE, REPRESENTING THE NEVADA ASSOCIATION OF SCHOOL BOARDS:

I would like to reiterate a couple of points just because I think that they are very important, and then I would like to very quickly walk you through an example of what the impact of this might be.

First of all, there is the question of where does this reserve come from. I know that there have been a number of questions tonight and discussion on that. The reserve account that we are talking about comes from the property tax revenues that are paid by voters that approve bond questions. Occasionally you will see a school district that will put some bond proceeds into that

reserve account in order to get it to the required level, but that is where the money comes from. When the voters approve a question, they approve the levy of the tax rate that gets levied each year to repay those bonds, and out of the additional revenue over and above what is necessary for debt service, that reserve gets funded. So this money comes from the taxpayers as a result of that question.

In terms of what this money goes for and what it is used for, I have worked on bond questions in almost every school district in this state over the last 20 years, and as both Miss Haldeman from Clark County and Miss Merrill mentioned, we always get the question, "Is this money going to be used for operations?" Up until now, we have always been able to say no. I am concerned that the discussion that we are having now is going to impair the voters' trust of what this money is being used for to make it very difficult for us to pass bonds again. As you heard from the folks in Washoe County School District, for some school districts, and especially in Washoe's case, this is the only source of money they have to maintain their facilities. The General Fund is not designed to remodel, modernize, or construct, if necessary, facilities for school districts. That is not what it is designed for: it is designed for operations. So the ability to issue bonds, the ability to get voter approval, is extremely important.

Now to very quickly walk you through an example of what the impact of this might be, we will use Nye County School District. As Dr. Roberts mentioned, they received voter approval in 2006 for a rollover bond question. Since that time, they have generated the required reserve from some net proceeds money that has come in. Where we have had money over and above that reserve, we have used it to pay off debt early and try to be good stewards of the taxpayer money in making sure that we are able to only have the bonds outstanding that are necessary.

For 2012, the assessed value in Nye County is going to drop about 30 percent. If you look at what that is going to do to the school district's tax revenues in terms of repaying the bonds, there are going to be some issues. Annual debt service right now for the school district runs between \$7.5 million and \$8.1 million over the next few years. Property tax revenues, assuming that the advanced payment of net proceeds gets continued, will be right around \$7 million a year. So there is going to be a shortfall between property tax revenues and debt service, and that, again, depending on net proceeds, is going to run anywhere from \$500,000 to slightly over \$1 million. Assembly Bill 561 as written will result in the Nye County School District having a debt service fund balance, or reserve account balance, on July 1, 2011, of just over \$2 million. With that, in 2012, 2013, and 2014, if things do not change with the assessed value in Nye County, or if gold does not go up to \$2,000 an ounce, it is very likely that they will be in a position where the debt service reserve has run out, and they will be, as Clark discussed earlier, in the position of needing to raise the tax rate.

The additional complication that could come in Nye County is that there are two areas of that county that are basically at the \$3.64 tax rate limit, and in NRS Chapter 361, there is a section that talks about if a school district bond issue is deemed to be responsible for the tax rate exceeding the \$3.64 limit, if certain findings are made, the school district can be required to pay the governments that have to lower their tax rate to accommodate the increase of the school district's tax rate.

Tax rates for bonds take a priority over operating rates in the State of Nevada, which is one of the reasons the general obligation bonds are such a good deal for the investors. They are very certain that they are going to get repaid. So in Nye County School District's case, if they were to have to raise their tax rate, it could be, that again under circumstances, that they would have to pay Tonopah and Amargosa and perhaps other entities, because the tax rate may go up in other areas because of this assessed value drop, out of their general fund to compensate those local governments for lowering their tax rate. Again, certainly an unintended consequence, but it is something that we need to take into account and look at as we are looking at sweeping these monies that, and specifically in Nye County School District's case, are meant to repay bonds, and that was the intent under which the voters approved that question and paid those property taxes: to repay those bonds.

With that, if you have any questions, I would be happy to address them.

CHAIR OCEGUERA:

Okay. Are there questions from the body for the school boards? Seems like there were a lot of questions about this earlier; maybe he just filled you in on it—or not. All right, I guess there are no questions. Thank you very much. Thank you in Las Vegas, Mr. Johnson, for hanging with us by yourself there all night. And Miss Merrill, thank you very much as well.

We will move to public comment. Is there anyone from the public still up and wishing to comment? Mr. Lawrence.

GEOFFREY LAWRENCE, DEPUTY DIRECTOR OF POLICY, NEVADA POLICY RESEARCH INSTITUTE (NPRI):

Thank you, Mr. Speaker. Since the hour is late, I will try and keep it brief. I know we have talked about a number of things tonight. There are a number of ways of measuring per-pupil K-12 expenditures that we have all talked about; I know Dr. Morrison addressed those. As you are aware, the basic support per pupil that is guaranteed through the “Nevada Plan” includes only a portion of the local revenues received by school districts. When total operational spending is considered, Nevada has known a triple per-pupil funding on an inflation-adjusted basis according to the U.S. Department of Education, as Dr. Morrison mentioned, and now spends more than \$8,000 per pupil.

However, when we talk about education funding, spending alone is not really the goal. The goal is to prepare children for the future and to endow them with the skills to compete in a global economy. We spend money to accomplish this goal, but national data indicates that the way in which we spend money matters more than the amount of money spent. A simple regression analysis shows that there is no meaningful correlation nationwide between per-pupil state spending amounts and student achievement. As I am sure you all know, Washington, D.C. spends the most on a per-student basis and yet yields some of the worst results in terms of student performance. On the other hand, Utah, our neighbor to the east, is among the lowest spending states and yet boasts some of the highest test scores.

While spending levels do not correlate well with student performance, numerous studies have shown that the degree of structural reform within the educational system correlates very strongly with student achievement. For instance, *Report Card on American Education*, published by the American Legislative Exchange Council, identifies specific areas of reform that have been shown to dramatically improve student achievement. They include open enrollment, the presence of alternative teacher certification programs, grading the performance of individual schools and teachers, and a degree of school choice.

With regard to school choice, The *Report Card* considers several different vehicles for expanding school choice. I know there have been proposals here to amend the *Nevada Constitution* in order to allow a voucher program, and while this is an aggressive approach, I do not believe it is necessary to amend the *Constitution* in order to expand the universe of school choice options. For example, this goal could be accomplished through the liberalization of charter school laws and, additionally, NPRI has modeled the impact of a public education tax credit scholarship program similar to Florida’s Step Up for Students program, which is a tuition tax-credit program primarily for low-income students there. The analysis showed that such a program would save \$25 million over its first two years and about \$1 billion over the first ten years because the eligibility expands gradually beginning first with those students in K through 3rd grade. In addition, the program would result in an increase in per-pupil funding for students who choose to remain within the traditional public schools because the scholarship amount would be indexed to the marginal cost of educating one student, which is typically lower than the average amount. Finally, the program would dramatically expand the educational options of students, which statistical analyses indicate leads to an increase in student performance.

Analyses of choice programs in Florida, Milwaukee, and other jurisdictions have also shown that traditional public schools, when exposed to competition, have elevated student performance levels. The question that I think is often asked is whether the quality of Nevada’s public schools can be improved with an increase in funding. Historical data indicates that this has not been the case in the past. While we have nearly tripled real per-pupil funding levels, student achievement has in fact declined over that period. Nationwide data shows that aggressive reform that brings the educational system into the twenty-first century is imperative if states are to improve student

achievement. I am not aware of any analysis sophisticated enough to model the impact of funding levels on achievement in a specifically post-reform environment. However, my intuitive sense is that spending levels can and should impact results once the educational delivery system is modified so that education dollars are spent more effectively. Yet I believe that reform alone would dramatically improve the quality of K-12 education in Nevada regardless of funding levels, and that the most constructive conversation that lawmakers should have from the perspective of the students should focus on how to implement the reforms that I have mentioned.

Thank you, and I would be happy to answer any questions.

CHAIR OCEGUERA:

Thank you, Mr. Lawrence. We have a couple questions.

ASSEMBLYWOMAN DONDERO LOOP:

I am the teacher who is going to answer a couple of questions. Thank you, Mr. Chair. I was just wondering if you have ever taught or been in a classroom.

GEOFFREY LAWRENCE:

No, I have not, although I can do statistical analyses, and the reason analysts rely on statistical analyses is they give you a 30,000-foot view of what is going on across the country. There are limitations, I should tell you, to every statistical analysis: that is that statistical analyses can be used like a regression can be used to support some theory, but they do not necessarily prove a theory conclusively. They just kind of show you what the general trend is. To say that aggressive school reform in Nevada would dramatically improve results, I do not think anyone can say that with 100 percent surety. However, from all the data that is in front of us, it seems to suggest that that is the case.

ASSEMBLYWOMAN DONDERO LOOP:

May I follow-up, Mr. Chair? For me, I taught 30 years, and I have 3 kids—I do not know if you have kids— but statistics do not work with humans usually, and I can tell you that I probably cannot do a whole lot of statistical analyses except to tell you that when you have a lot of little kids in front of you that all come from different walks of life that are all over this country, the analysis has to be right in that classroom, and we have to fund that classroom, and a lot of research shows that.

GEOFFREY LAWRENCE:

I guess if I can respond, I would say that the purpose of expanding the universe of school choice specifically would be to cater to the diverse needs of individual students, with recognition that every student does have a unique set of gifts and talents and limitations.

CHAIR OCEGUERA:

Thank you. Mr. Conklin.

ASSEMBLYMAN CONKLIN:

Thank you, Mr. Chairman. Mr. Lawrence, I have a couple of questions; I am just curious because you seem a little bit in your testimony to contradict yourself, and let me tell you where at least I find the contradiction.

The first thing you said is you mentioned a single variable regression analysis, very simple. If you took basic regression in undergrad, that is the first model you learn to prove. And you said that there is no correlation between spending and test scores. And yet, later on, you said intuitively it makes sense that there would be an outcome, and I am going to assume intuitively means something like this: it is hard to learn if you do not have a book, and today we have books online, but you have to have access, and usually access costs money. To learn you have to be able to get to school, so we have to transport someone. Intuitively, it makes sense that you need some money for people to be able to learn, correct? And I think that was what you were saying.

The problem I have is this: I cannot remember the last time I saw somebody actually use a single variable or a simple regression analysis for statistical studies, because things are too complicated. We know that you might in a simple regression analysis get no correlation when, in fact, all the problems with your result are in the error term because you have not gleaned them

out yet. And so, the recognition is still there that theoretically we still agree that you have to spend money to get achievement, and just because your statistical model proves that your theory is wrong, it does not really mean your theory is wrong; it could just mean that your model is wrong. There are a lot of studies out there, especially now with all kinds of new multivariate regression analyses and everything else that they have at their disposal, that I think would suggest that there is a correlation, and it seemed odd to me that you made both of those statements at once. Your theory is that you do need money because without money, you are not going to have any achievement, but at the same time, there is no correlation.

GEOFFREY LAWRENCE:

I think the point I was making, Mr. Conklin, was that on a very simple level, if you are just looking at state-by-state per-pupil spending amounts, there really is not a correlation, and I think the reason for that is that every state's educational system is structured differently. It would take an extremely complex and sophisticated model to be able to measure all the facets of that educational delivery system for each state.

However, the point that I was making about funding was that if you have structured the educational delivery system so that dollars are spent on a more cost-effective basis in terms of performance, then of course you should be able to purchase greater results with more dollars. Looking back at historical data for Nevada alone, we have dramatically increased spending over the years, and we have not seen that increase in results. The question that comes to my mind is what we are doing wrong because that increased investment should yield some higher graduation rates, for instance, or higher test scores, and that makes me think that it is the delivery system itself that is nonfunctional.

ASSEMBLYMAN CONKLIN:

Mr. Chairman, if I may follow up. I think there could be some validity to that, but the problem is as we get back to the whole problem with an error term and not having gleaned out all the information to know whether that is in fact the truth or not. Because intuitively, and you have already agreed that the spending should have an outcome, we do not know what the other factors are. The other factors could be that we have a lot of people entering and leaving our system before we can ever have an opportunity to affect the outcomes—the transiency rate—which I think we would agree occurs in Las Vegas. There is a litany of potential outcomes like that.

The other thing that we might consider is sometimes it is not necessarily the growth rate or the money that we actually put into the system, it might be the fact that we have to compete in a nationwide market for students, for technology, for advancements in the classroom. Test rates grow as students achieve, and if we are constantly falling behind, and I will use numbers that came from the same chart that you have used in your own policy research from NCES (National Center for Education Statistics); in 1960, we were 14.7 percent above the national average in per-pupil expenditure, and in 2008, we are 20.5 percentage points below the national average. In spite of the fact, and I agree with you, that the amount of money we spend has grown exponentially. So the fact of the matter is we simply are not keeping pace. And it is not because everybody wants to spend more: things just cost more. It is no different than health care. The price of health care, I think we would agree, is just ballooning; it does not operate at this complete aggregated amount of inflationary rate: it has its own rate, and we have to compete in that environment. Every time we fall farther behind, all the resources that we want are going to someone else including, I might add, the best and brightest of the teachers—God forgive me for saying that because I say we have some really good ones in Nevada, too. But we are always going to be in that competitive environment, and if we are not willing to pay, then there is, I think, a rational outcome to that.

GEOFFREY LAWRENCE:

Mr. Speaker, through you to Assemblyman Conklin, from the numbers that I have seen, I think that teacher pay in Nevada is actually competitive nationwide: I think it is near the national median, so that is true. With regard to keeping up with what other states are spending, I would say the counter argument may be that those numbers suggest that other states also have a dysfunctional educational system, and the additional investment is not yielding the results that

they are looking for either. I would say that the educational establishment nationwide has failed to adapt technological advancements in an effective manner that should ultimately reduce costs, because you have options out there like online charter schools, for instance, that eliminate the costs of the student having to go back and forth to the school every day. And some of those have been very effective in terms of producing well-qualified students. There are states that allow an online charter school for instance and states that do not. Like you said, there are a lot of things going on, and it is very difficult to develop a model that reflects really every concept.

ASSEMBLYMAN CONKLIN:

So then if that is the case, we cannot adequately make a model that reflects all of that, and we cannot adequately say that funding does not matter.

GEOFFREY LAWRENCE:

Mr. Conklin, I would say that we also cannot conclusively make the counter argument either.

ASSEMBLYMAN CONKLIN:

But at least, according to your own admission, we can intuitively conclude that, which is better than not statistically disprove it.

CHAIR OCEGUERA:

All right, do we have other questions? Mrs. Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Mr. Chairman. I do not know if mine is a question or more of a comment, but here is the thing: As an elected official, I am here to worry about Nevada kids. We can compare to Florida, we can compare to Utah, we can compare to Washington, or all the other states that I have heard here tonight. But when I go home at night or when I am at my job, I have to worry about the Nevada kids, and the cuts that we keep making. We keep taking the tools out of their toolbox, so there is going to come a time when they have nothing to work with. As a parent, as a person with my youngest 18, I still work the concession stands in my neighborhood; I still help the Girl Scouts in their schooling (they are here today).

I think that we have to quit trying to compete with everybody else and quit saying what is better in Florida, what is better in Utah, because things are different. None of those states that we talk about have a 24-hour town; none of those states rely on discretionary income; none of those states have kids that are constantly moving from one part of the state to another or one part of the city to another. We need to make a Nevada model: the Nevada kids that I represent. You tell me about Utah—I go to Utah. They have a whole different culture there of how that works. We can talk about Florida. They have a whole different culture of the kind of kids there. I am not into the models because, to me, I cannot explain whatever model you and Mr. Conklin were talking about to anybody in my district, but I can explain to them about the cuts and the choices that I have to make as an elected official, which my word to them was that I would make sure that they had all the tools in their toolbox to get a good education.

Do I agree that we have to make some changes? Absolutely, but at the same time, I implore all of you in this room to come up with a model for Nevada. We can compare ourselves to everybody else, we can put fancy formulas in place, but the only way I see it is we keep kicking, whether it be dollars . . . When I was in high school, it was \$1.85 for minimum wage. I could not buy a loaf of bread for that in two hours of working. So I think we really have to get back to what we are talking about: we are talking the tools out of the tool chest and setting our kids up for failure. Whatever model that is, let us come up with it and do what is best for Nevada kids.

GEOFFREY LAWRENCE:

Mr. Speaker, through you to Assemblywoman Kirkpatrick, the reason that we base our models on what other states have done is just to give us an idea of what ideas may work here and what may not. One of the reasons we like Florida as a model is because in a lot of ways it resembles Nevada in terms of the composition of the student body; they have roughly the same proportion of English as a second language students; both states over the past 12 years have increased per-pupil spending at 11 percent, the same rate. So there are a lot of things that kind of make Florida a control for us and allow us to just look at the impact of reform there. And I

think, at least the data from test scores indicates, that there is a lot of merit to those reforms and those could be applied successfully here in Nevada. The states are referred to as “laboratories of democracy” for that reason. We can look at what other states have done successfully and where they have failed. I think there is value there, if that answers your question.

ASSEMBLYWOMAN KIRKPATRICK:

Mr. Chairman, can I just follow up, because I go back to us priding ourselves in Nevada on being a unique state. We pride ourselves on having 17 very different counties across the state. I do not know that Florida uses that discussion within its model; I do not know that any other states talk about the uniqueness of their state, as Nevada has always been very proud to talk about that. I care about Mr. Ellison’s district, I care about Mr. Goicoechea district, and I care about Mr. Livermore’s district. I do not know that in Florida that your elected officials are accessible; I do not know much about Florida because I choose to make Nevada my home, and I choose to do what is right for Nevada kids at the end of the day. Maybe there are pieces and little things we can do a little bit at a time, but I am a little offended that if Nevada is so horrible and Florida is so great, then everybody needs to pack their bags and move on. That is exactly how I feel. We are in Nevada, we are unique, and we need to make a model for our state.

GEOFFREY LAWRENCE:

Mrs. Kirkpatrick, I am not saying that Nevada is evil and Florida is the home of all things good, but I think there are some good ideas that have worked in Florida that could potentially improve Nevada and make it a more attractive place for the future. I think we are all concerned about the quality of education in the state, but I think that, as Mr. Conklin said, under the right circumstances, funding levels can matter, but the data suggests that without reform, funding level is somewhat irrelevant.

ASSEMBLYWOMAN KIRKPATRICK:

Mr. Chairman, my last point please. What I would like to see tomorrow is all the cuts that Florida has made in the last three years within their education, and I would also like to see for myself how much all the reforms cost. If we are going to compare apples to apples, I want to be able to go back to my constituents and specifically tell them how much Florida has cut in the last three years, if we are comparing it, and how much the reforms cost, because I have seen things that say reform costs money. I just want to see that in black and white for my constituents.

CHAIR OCEGUERA:

See, when you work this late, you have Mr. Lawrence and Mrs. Kirkpatrick working together on an assignment. You do not need to answer; let us go to another question. Mrs. Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Chairman, perhaps more of a comment. We started out listening to Mr. Clinger tonight talking about statistics and where we rank and how you can look at many different reports and develop your own opinion, and I really think that is what we have here. You can look at this a myriad of ways. If you look at Washington, D.C. and Utah, and you throw out the two anomalies, and you look at the rest of the country, you do see that money matters. We have all seen the report that the Education Alliance recently put together that is their opinion, with very respected people who have worked on that report and put that information together. So you can certainly make the case either way. Florida, in fact, spent about \$1.5 billion on their reform, and my thought is, you cannot pick and choose only the pieces of reform that do not cost anything and say that this is what we should do. I am the first to tell you that we do need reform, and we are working on reform, but we also need to adequately fund our education system. I am not of the opinion that you can build a statistical model and decide that our education system needs to look like any other business, because we are not about making widgets: we are about educating children. We have schools that take all children. It does not matter if they are rich or they are poor, if they come to school fed, or if they come to school having spent spring break in Europe because they have those opportunities. We educate all of these children who come to our school, and I just think that we really need to keep that in mind. I appreciate your efforts and I appreciate you being here with us tonight and

offering your information. We can always have a difference of opinion in this body, and that is a good thing. Thank you, Mr. Chairman.

CHAIR OCEGUERA:

Mr. Hammond, last question.

ASSEMBLYMAN HAMMOND:

Actually, the statistics that Assemblywoman Smith just gave, she just said again there are only two other states that spend less than we do but get better results, and I am looking at statistics from another chart, and I see that there are about 27 other states that spend less than we do and get better graduation rates than we do here in our state. I want you to perhaps address that as well. What have you seen in your studies?

MR. LAWRENCE:

That is a good question. I do not want to say something inaccurately, and I do not know the answer to that in terms of states that get better results with fewer dollars.

CHAIR OCEGUERA:

I lied. Mrs. Smith, do you have the answer to that question?

ASSEMBLYWOMAN SMITH:

No, I do not have the answer. I wanted to correct Mr. Hammond. I did not say anything other than the fact that if you took the lowest state Mr. Lawrence referenced and the highest state and removed them and talked about the rest of the states, let us talk about funding mattering. I did not say anything about the number of states that fund less than we do; I was just talking about what I think are the two outliers in the discussion.

CHAIR OCEGUERA:

Thank you, Mr. Lawrence; we appreciate your testimony. We have spent the last four and a half hours going over the proposed Governor's budget on K-12 education. It seems to me that there are some decisions to be made. As we do in Committee, I would like to get a flavor of the body and see where we are at on some of these decisions. So I guess I will start at the top.

In the Distributive School Account, I would like to know: Does the Committee wish to decrease the basic per-pupil support by \$238.2 million as recommended in the Governor's budget? That would be the first question. It is a simple red and green button. If you would like to support the Governor's recommended budget, you would press a green. If you would like something else, press a red.

I guess that gives us a pretty good indication. Let me just pose it a different way. Let me think about this. Let us pose it this way:

Would you be willing to support some cuts, which would be a green, or no cuts at all, which would be a red?

The question is would you be willing to support some cuts or no cuts at all?

ASSEMBLYWOMAN SMITH:

Mr. Chairman, may I clarify? We are referring to your first question which was the \$238 million per-pupil expenditure; that is the decision?

CHAIR OCEGUERA:

Yes, that is correct. I was referencing the basic per-pupil support.

ASSEMBLYMAN CONKLIN:

Mr. Chairman, can I also chime in? This is two options, so we either have to decide that red is some cuts and green is no cuts, do you see what I am saying? Could we rephrase the question so that we understand what we are voting for in this sense? If you are for some cuts, but you do not know what those are and it is negotiable, that is a green button. If you are just a no on cuts period, that is a red button.

CHAIR OCEGUERA:

That is exactly what I was trying to say. Thank you, Mr. Conklin.

[There were 25 yays and 17 nays]

Thank you. This gives us an idea. Let us go on to what I think would be the second question, or the third category. Does the Committee wish to decrease the K-12 budget by \$256.6 million for a 5 percent reduction to school employees' salary as recommended in the Governor's budget?

If you wish to decrease the budget by the Governor's recommendation, that would be a green. If you want to do something else, that will be a red.

[There were 16 yays and 26 nays]

Mr. Conklin, do you want to phrase another option on that one for me?

ASSEMBLYMAN CONKLIN:

Thank you, Mr. Chairman. I think what we are trying to do is find out if there is room for discussion somewhere, and I think the appropriate question would be, I guess, instead of saying the Governor's budget, say "Would you be willing to support some cuts, or some salary reductions, just not the one that is proposed, or is it simply no cuts at all." A green button if you support some reduction in this category but not the one proposed, and a red would be you do not support any cuts to this budget item.

The previous go at this was Gov. Rec. but there is a bunch of people in there who are not willing to go for that. So what we are trying to find out is if there is room for discussion. If there is no room for discussion, then what is the point of even meeting at all? What we are trying to glean out here is if there is room for some discussion and I think, and Mr. Chairman, you can correct me if I am wrong, what we are trying to do is put a question out there that finds out if people are willing to talk on this issue.

CHAIR OCEGUERA:

That is exactly right.

ASSEMBLYMAN CONKLIN:

If I could restate the question if you would be willing, Mr. Chairman: Would you be willing to support some cuts to this budget item, not at the level that has been proposed in the Governor's budget, or are you not willing to cut this budget item at all? A green button would mean you are willing to talk about this one.

[There were 18 yays, 23 nays, and one excused]

ASSEMBLYMAN CONKLIN:

So just for clarification, all the people who are red are saying, "We do not accept the Governor's proposal; we want no cuts to this budget item." (Laughter.) Now I have clarified the question.

[There were 18 yays, 16 nays, 7 not voting, and one excused]

And just for further clarification . . . I am not sure what not voting means; I guess they do not want to participate in the discussion.

CHAIR OCEGUERA:

Let us start over on this question. The first question that we posed under the second category was, "Does the Committee wish to decrease the K-12 budget by \$256.6 million for a 5 percent school employee salary reduction as recommended in the Governor's budget?" You have two options: Yes, I want the Governor's recommended budget, or no, I do not.

Then we tried to pose the question to say is there some room or some latitude: something short of the Governor's budget or you absolutely do not think there should be any cuts at all. Does that make it clear?

ASSEMBLYMAN GOEDHART:

Thank you Mr. Chairman. It seemed like the way the last question was posed to us was, "Do you want slightly less cuts than what the Governor has proposed, or do you want no cuts at all?"

How about for us who want the cuts the Governor has proposed. That does not seem to be an option. It is either cutting slightly less or you are cutting nothing, and neither one seems to fall within the feelings of some of my colleagues here.

CHAIR OCEGUERA:

I understand why you are confused. Mr. Conklin.

ASSEMBLYMAN CONKLIN:

Thank you, Mr. Chairman. Mr. Goedhart, and yes, because we are in the Committee of the Whole I can call you that; feel free to call me something appropriate. I think what we are trying to figure out is whether there is room to move at all. The previous question was which do you prefer, and now we are asking a different question. If neither of those two options is an option for you, then basically the suggestion is that you are not willing to engage in a budget debate at all. And this is the budget committee; we are talking about the budget. Somehow we have to find enough votes to move a budget out, and I realize that everybody has got their priorities and I understand that. I do not know, Mr. Chairman, how you best want to indicate that. Maybe those who do not want to have a budget discussion at all can put on their abstention light, and that is your choice. But somewhere we have to figure out where the room to have a discussion and find some compromise is going to be. That is the nature of this body—finding a compromise.

CHAIR OCEGUERA:

Correct. The point is if we are going to have 8 votes on these decision items and they are going to be all 26 to 16, what is the point? We were looking for alternative questions to see if there was room on any of these eight decision items that we have in front of us.

ASSEMBLYMAN STEWART:

Thank you, Mr. Chairman. I think it is too early to be making these definite decisions. We have the Economic Forum coming up in a couple of weeks; we have some revenues that are improving; we have some of the suggestions of five qualifications that the Republican Caucus made. There is room for discussion down the line based on some of these factors that have not come in yet or are being settled. So I think it is too soon to be saying that there is no room for talk. Thank you.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Chairman. I just want to clarify for the body that we are on the same track that we would be in whether we were doing this in a subcommittee or whether we were doing this in a Committee of the Whole. We cannot begin closing the budgets unless we have some idea of where people are leaning on these issues, which is why we are where we are tonight. These are not, by any means, binding votes, as the Chairman indicated. We are simply looking for areas that we have some room for discussion and some room for compromise, which includes Mr. Stewart's remarks about other things that need to be part of the discussion. So this exercise is simply that: it is a discussion and "How are you feeling about this? Do you think you can live with this particular cut or can you live with something in between or not live with any cuts?"

And I think to answer Mr. Goedhart's question, I understand your point, or possibly your frustration, but we also took the first vote and saw the greens and the reds and the yeas and the nays, so I think we fully understand where people are when you see that first vote. The second vote simply gives us an idea of which of these decision points have some room for compromise. That is all we are trying to get to; we are not on any different track than we would ever be. We just really need to know where the discussion needs to continue as we start closing budgets with the Economic Forum and with all the policy bills passing. Thank you.

CHAIR OCEGUERA:

Thank you, Mrs. Smith, and quite frankly, if we do not close these budgets now, we are not going to get done on time. This is when we close budgets; we are closing them already in committee. Just trying to get an idea so that we can close them down.

ASSEMBLYWOMAN CARLTON:

Thank you, Mr. Chairman, and Mrs. Smith covered it, but I looked at the second vote as, “Do I have wiggle room on this issue; am I willing to compromise?” It is not an either/or, it is a “Are we willing to sit down and negotiate on this issue?” Each one of us has our own thresholds for negotiation, so the first question, I believe, is totally separate from the second. We are taking the temperature on the first question, and on the second is, “Is this something we can talk about or do we need to move on to something else?” You cannot have a negotiation without two sides.

CHAIR OCEGUERA:

Correct, and with eight decision points, there may be some that we will say, “That one obviously is off the table” and there may be some come up with a mixed vote that we say, “All right, these are ones that we can talk about.” Mr. Hammond.

ASSEMBLYMAN HAMMOND:

Thank you, Mr. Chair. My question is that you keep talking about whether we are willing to compromise and how much and so forth, but I would rather deal with the tangible. What are the compromises? I think as a caucus we have put forth a couple of things that we would like to go to the table with, and I think that is where we would like to talk; we would like to be at the table talking about those things. I do not know if we are taking votes right now that will count for anything later on. There are too many things out there, too many variables, as my colleague Mr. Stewart has talked about.

CHAIR OCEGUERA:

Mr. Hammond, I understand your frustration. However, we will not be able to close the budget: that is just the way it works. You have to close the budget in a systematic order to get it done. Mr. Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Mr. Chair. In all fairness to my caucus, at this point I know we are just going to be voting Governor’s recommendation until we actually get into some negotiations down the road. We have talked about the five reforms that we were willing to look at, and in exchange for that we are willing to look at the sunset taxes. Until we get to that conversation, it does not matter how we vote here; the bottom line is my caucus will be going Gov. Rec. So it is not going to give us the wiggle room you are really looking for.

CHAIR OCEGUERA:

I would not say I am looking for wiggle room. If you do not want to put wiggle room out there, that is fine with me. Let us go with Mrs. Smith for a second.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Chairman. As the chairman of the other committee, I have to remind everyone that we are on a schedule like all schedules, and to be done, we do have to start these discussions now, and we do need to understand that if in a world where you had what you needed, are you talking about liking or not liking some of these cuts, I guess is what I would say. There are some of the areas that I do not love, but they are areas I can talk about. I do not want to make any cuts to education, but I know we are going to have to make cuts, and we have already started closing budgets with cuts in every single budget. That has not been pleasant for me to vote Gov. Rec. every time we vote, but we have had to do it. Here we are on the biggest part of the budget that we have to start making some decisions on or we will not be done in time; they are important decisions as well. So we need to have some understanding of whether there are pieces of this budget or decision points in here that you feel you can compromise on at some point in the discussion. It has already been indicated there is nothing binding here tonight. If we hold everything off until some point in two weeks or three weeks, we are going to be in trouble trying to close this budget, because the mechanics will not allow us to get there. We really do have to have these very difficult discussions, and that is what we are here for.

CHAIR OCEGUERA:

I agree, and Mr. Goicoechea, I will let you speak again. As far as the five reforms, quite frankly, I have a bill on every one of those reforms. As far as cuts, as Mrs. Smith just said, I am closing budgets at Gov. Rec. that I do not want to do. Those are votes that I do not want to do, but I am doing it because I know it has to be done. When I came in to describe a PERS bill to your caucus, they said, “What do you like about this?” and I said, “Nothing. This is what you wanted.” Those bills are out there, we are willing to have that discussion, but we still have to close the budget. Mr. Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Mr. Chair, for recognizing me a second time. I know my caucus feels the same way. We know we have to close these budgets; there is nothing in this budget that we like, but the bottom line is until we have the dialogue and discussion about the reforms and the revenue package, we will continue to maintain our position, which is the Governor’s recommended budget.

ASSEMBLYMAN SHERWOOD:

Thank you, Mr. Chair. The two sides of this, as was mentioned by Miss Carlton, are what taxes would you increase? Just for the sake of this argument. It is almost a moot point, because of where our leader has us right now and we are behind that 100 percent. What would you say on the other side? The rest of that question should be, “Would you be willing to entertain not cutting as much if we raise taxes on cigarettes, if we raise taxes on water?” We could do a hundred of those and see where we are at, but in the absence of you telling us which taxes you are going to raise, it is in the abstract, right? So why are we even asking the questions unless you want to tell us which taxes you want to raise?

CHAIR OCEGUERA:

I do not think that is the way it works at all, Mr. Sherwood. I think what happens is, you close the budget, you find out what the number is. If we close some budgets that are not at Gov. Rec., then there will be a gap. We may get money through Economic Forum, we may not—we do not know. On May 2 we will know that. Concurrently with what we are doing now, we are having hearings on the revenue side on different revenue options. After May 2 we will know what the number is, and we will say it is whatever, \$1 billion, \$500 million, \$750 million, \$100 million, I do not know—whatever it is—and we would then have to figure out what revenue source would work. Mr. Conklin.

ASSEMBLYMAN CONKLIN:

Thank you, Mr. Chair. I think that is exactly right. I think the point of this discussion is to decide amongst this body what is acceptable. To many people in this body, the proposal that is here is not, and I do not think you can have a discussion about “let’s just raise revenue for the sake of raising it and then we will spend it.” What we really need to do is decide the acceptable level of funding for critical services like K-12, Higher Education, and Health and Human Services. We realize there are going to be cuts and they are going to be painful, but for some people, those cuts are too deep. What we need to have is an honest, sincere discussion about what is a reasonable expectation, and then once we decide on funding levels that get us to some common goal, then we can decide on how to fund that gap. But it only makes sense to make some fundamental decisions about what state we want to live in. What kind of school do you want your children and your children’s children and your constituents’ children to go to? What kind of opportunities do you want them to have? How many homeless people do you want to have on your street? How many county hospitals do you want to go unfunded because we do not have an indigent accident fund? These are questions we have to answer.

The question really becomes, “If the budget that is before you is acceptable . . . will somebody please tell me when it becomes unacceptable?” That is the discussion we need to have, because for many people here, the budget that is currently being presented is not acceptable. I am not telling you it has to be 100 percent of what it was last time; we know we cannot get there either, but we need to talk about some of this stuff—we have to have an honest discussion—and all the other things which are going to come along with it. As the Chair said,

there is a bill on everything out there, and those are painful for everyone here. It does not go far enough for some, it goes too far for others, but that is the nature of this business. It is a compromise, and we are here to do the people's work, do it to the best of our ability; we are going to respect each other, and we are going to have a difference of opinion, but we cannot hold this off any longer or we will be here until July 22, like we were in 2003, and I have to tell you, that is going to be really painful.

CHAIR OCEGUERA:

Thank you, Mr. Conklin. Some of the other questions are going to come up; these are not mysteries. Do we wish to eliminate the class-size reduction? Do we wish to eliminate full-day K? Do we wish to do the I.P. funding per Governor's Recommendation? These are not trick questions; they are just questions that have to be answered. Mr. Daly.

ASSEMBLYMAN DALY:

Thank you, Mr. Chairman. We are still on the question about cutting teachers' salaries, right? I would just say this. If our goal is to attract and retain the best teachers we can for our classrooms, cutting pay, in my opinion, is taking the state in the absolute wrong direction. If you are a bright, young, new student shopping for a state or a place to work, and you look at Nevada ranked 50th in the nation and we pay below the national average, what self-respecting educator is going to pick the 50th thing on their shopping list? I think our previous education budgets and the best efforts we could make have been the equivalent of putting band aids on bullet wounds. So if education is our patient and the Legislature is the doctor, we have a duty I think to first do no harm. If we are going to continue down that path, we cannot cut our way to a better outcome in our education system. I cannot in good conscience support pay cuts for educators in the State of Nevada. If I did, I would not be able to look myself in the mirror in the morning without wanting to cut my throat for selling out the state, the students, and the people that we are trying to help. Thank you.

CHAIR OCEGUERA:

Thank you, Mr. Daly. Mr. Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Mr. Chair. I am trying to hurry along, because I know where we are and how the votes are going to shake out. I would make a motion to move the Governor's recommended budget.

CHAIR OCEGUERA:

The motion is to move the Governor's recommended budget on the following items:

1. Does the Committee wish to decrease the basic per-pupil support by \$238.2 million as recommended by the Governor's budget?
2. Does the Committee wish to decrease the K-12 budget by \$256.6 million for a 5 percent school employee salary reduction as recommended in the Governor's budget?
3. Does the Committee wish to decrease the K-12 budget by \$200.9 million for a 5.3 percent pay reduction for school employees for retirement contributions as recommended in the Governor's budget?
4. Does the Committee wish to decrease the K-12 budget by \$141 million in cuts to teacher pay for education attainment and years of services as recommended in the Governor's budget?
5. Does the Committee wish to eliminate the requirement for class-size reduction and move the funding out of the Distributive School Account and allocate to districts after a 5.4 reduction based on the district enrollment as recommended in the Governor's budget?

6. Does the Committee wish to eliminate the requirement for full-day kindergarten and move the funding out of the Distributive School Account and allocate to districts after a 5.4 reduction based on district enrollment as recommended by the Governor's budget?

7. Does the Committee wish to use the \$300.9 million of school district debt services reserves for operating purposes as recommended in the Governor's budget?

8. Does the Committee wish to credit \$221.5 million of I.P. No. 1 room tax revenue to the General Fund rather to the State Supplemental School Support Fund, which was required in the petition, as recommended in the Governor's budget?

Would that be your motion, Mr. Goicoechea?

ASSEMBLYMAN GOICOECHEA:

Yes, I believe that would be correct.

CHAIR OCEGUERA:

Discussion on the motion? Mr. Conklin.

ASSEMBLYMAN CONKLIN:

Thank you, Mr. Chairman. I am disappointed. There were many of those items I feel like I am willing to compromise on and discuss. Unfortunately, the nature of the motion is to throw them all up at once, so therefore I will be voting no. If I may, also just so that I feel better about it: Cuts of this magnitude in their totality are completely unacceptable to me. My answer is no now and, again, I am willing to discuss it, but I am not willing to hang in the balance the children of my district and their education over Chapter 40 (of *Nevada Revised Statutes*). That is not what this is about. This is a budget discussion on whether or not we should be funding the education of our children and the future of our state. I will be voting no on this motion.

CHAIR OCEGUERA:

Thank you, Mr. Conklin. Mr. Hickey.

ASSEMBLYMAN HICKEY:

Thank you, Mr. Chairman. I am going to be voting yes on this, but I would like to say, especially to the point of the Majority Leader to his earlier comments about the question of what is an acceptable level of funding, and as tonight's discussion relates to education, I for one am a member of the Ways and Means Committee on the Education Subcommittee who actually feels we ought to be apportioning a larger amount of the overall budget toward education. But we have not made decisions. To tell you personally, as a priority, I would rather see some decreases in Health and Human Services and Public Safety, and to that point, I have a bill before that committee to actually direct more monies toward education after the Economic Forum. But that is not to the point.

I think for a lot of us, we do not want this to be black and white, but until some of the questions our caucus leader raised have been seriously discussed, then as I said, I will be a yes on the measure before us.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Mr. Chairman. You know, I am a little disappointed because I am a pretty reasonable person within this chamber. I do not look at one person's party one way or another; I am all about being in Nevada. I am a statesman, I look at what is best for the rurals, I look at what is best for the south, what is best for northern Nevada, and I have to tell you, I am going back to Nevada being unique. And the unique thing about Nevada is we can agree to disagree, but at the end of the day, we will all walk out and do what is best for the state. My concern is by not having this discussion . . . I am not on Ways and Means, but I tell you what, I have to go home and explain to my constituents what the top six people decided in this room, and I think it is unfair to all the new legislators that are in this room to let that happen. I want to have a voice

this time; I want to be heard; I want my constituents to know the hard choices I have to make. Listen, I do not like any of these cuts, and I am sure not voting for the debt bond. I am pretty clear about that: I have been clear since day one, because that was not what I was promised. But I am willing to look at all the other stuff. I am willing to say to my district, “You know, we had an open discussion, we talked about it, here are some of the things I am willing to bend on. I know you do not like it, but at the end of the day, these were our choices. Let’s close down this school in your district, let’s close down that school in your district.”

I tell you what: I have a map. I can figure out how we can consolidate the whole state and how we can make this work. But this is an open discussion that we are supposed to be having. This is all of us as colleagues, this is all of us as freshmen, and this is all of us as veterans talking about what is best for the state. I am not ashamed to tell my constituents that I had some really hard choices. I am not ashamed to tell my constituents that there were some negotiations out there. I get all that, and believe me, my constituents do not really care about all of the other policy changes that we did; they do not care about the 685 bills that we passed between both houses in the last couple of weeks. They want to know, what are we going to do about education? They want to know, what is going to be in their district, what can they expect when school starts in August? I think it is a disservice to all of us, and I am disappointed that we do all not want to have this public discussion. I have nothing to gain out of this whole thing except fighting for my constituents. So I ask all of you, let us have these discussions, let us debate it publicly, because when any one of us goes home to our constituents, we can say we stood up. I do not want the core group making the decisions for me this time because I want to know what I have to tell my residents.

CHAIR OCEGUERA:

Thank you, Mrs. Kirkpatrick. Mr. Bobzien.

ASSEMBLYMAN BOBZIEN:

Thank you, Mr. Chairman, I want to echo the comments of Mrs. Kirkpatrick. Tonight I am thinking of my constituents, and I am thinking of one mother that spent some time with me at Mamie Towles Elementary School in my district a couple weeks back. She had a concern, based on her previous years’ experience with one of her children in a class of third graders that had, at the beginning of the school year, well more than 30 kids in the school, and there was some fast footwork that the principal had to put in place. They found some money and were able to bring on an additional teacher, and they got the class size down. And she knows that for those two weeks, she knew that her child was not learning, and she is panicked about what is going to happen with these cuts. Now, for the last year, during the campaign and ever since then and right up to the session, I have been having people pleading with me, “Do not cut education any more,” and I have had to tell them that times are tough, some cuts are going to happen, but I am not going to vote for this motion, to vote for this recommendation, at this level of severity, and go back to my district and tell that mother, “Get ready, your kid’s going to have a really big class next school year.” I am not going to support that motion, but I do know that we have to have some cuts; I do want to have a discussion, so as such, I will be voting against this motion.

CHAIR OCEGUERA:

Thank you, Mr. Bobzien. Mr. Horne.

ASSEMBLYMAN HORNE:

Thank you, Mr. Chairman. I am equally as upset. Like Mr. Bobzien, I have told people that this was going to be a very painful session, and while I hated doing it, I had to tell them that there are going to be some cuts to education. And tonight we have just been told the Governor’s way or no way, and that is not how things are supposed to work here. I am upset that there is going to be a long line of promises broken because, just starting tonight, I told my own 5-year-old that I would be home before she went to sleep. I can tell you that is not going to happen, and I am going to hear it in the morning. When I finally get home in Las Vegas and there will be little kids’ birthday parties because this is the birthday season; when I go to my kids’ classmates parties, the parents are going to ask me what is going on up here. I can tell you that in both of my kids’ classes . . . Chloe’s kindergarten class has 30 kids in her class, and there are almost that

many in my son's second-grade class. We are in an area where twice a year we have an official raising of funds and bringing school supplies for the school. The parents do this: reams of paper, books, and all kinds of supplies. The parents bring these to the school so the school can function throughout the year, and those are just the official ones. It does not count the times in mid-semester when they ask parents who can afford it to bring additional supplies because they are running low. This is in a middle and upper-middle class neighborhood where a lot of parents can afford to do that. And I think about the other neighborhoods that have school districts in which the parents cannot contribute even a fraction of that.

We heard earlier tonight Dr. Morrison say, "If I had to choose between a quality teacher or textbooks, I will choose the teacher every time." It is amazing that we have gotten to a point where we would ask a superintendent to make that choice in the first place. And so tonight we have, I cannot even call it a debate because it is not a debate; we are not having the discussion we are supposed to be having on where we could find middle ground, because with that motion, it says there is no middle ground: you have to do it this way or no way at all. I am disheartened by that, and it looks like we are going to be here for the very long haul. I will close by saying that those of you who have taken that position, a lot of you come from areas of our state that are taking from two of the largest counties of the state, but yet you will not help move this state forward yourself, and I find it very discouraging, Mr. Chairman.

CHAIR OCEGUERA:

Thank you, Mr. Horne. Mr. Grady.

ASSEMBLYMAN GRADY:

I, too, sit here a little bit frustrated tonight, because I do not feel that we even started the conversation. In all due respect, you came in here with some points that you wanted us to consider. I would have hoped that you would have gotten together with the leadership on our side and said, "What points can we bring forward to discuss?" I agree completely with Miss Kirkpatrick: I do not want the core group choosing what we should do, but I think leadership on both sides should be able to sit down and say, "How can we phrase some questions, how can we put together something that our Committee can look at?" We did not know, other than this piece of paper, until today what you were going to bring forward. We have never seen any compromises, any discussion. We were just told, "Here it is. Vote on a piece of paper that is not even a bill." I would really hope that you and our minority leader and whoever you choose can sit down as early as tomorrow morning and put together some points that we can discuss, that we can talk about, and quit just pushing buttons that we know we are not going anywhere with tonight. Thank you.

CHAIR OCEGUERA:

Mr. Grady, I appreciate your comments, but I just take exception. This is the sheet that we would use normally and this is how we close budgets. You are on Ways and Means. These are the decision points that would be in that Committee. I did not alter them, I did not change them, I did not make them something that they were not. I just brought you what they were and asked where we are going to be on those. I take your point though about sitting down with the Minority Leader and working on those, but those decision points are not going to change: those are budget decision points. Again, I will take your advice to sit down with the Minority Leader on those, but I do not see them changing. I do not see that as a surprise. We got these to you 24 hours in advance; everyone in this body got them at the exact same time. I appreciate that. Mr. Ellison.

ASSEMBLYMAN ELLISON:

Thank you, Mr. Chairman. There is not a person in this room right now, I can swear, that does not support education—not a person. If there is, please stand up. There is not a one in here. Do we care about education with all our heart and soul, because that is our future? But I also care about the largest unemployment in the state of Nevada. Right now there are people losing their homes, their jobs—they have no place to go—and if we put another burden on these people, are they going to lose their homes and then be on the street? No sir, Mr. Chairman. I am hoping that you and Mr. Goicoechea can sit down and discuss the issues that you need to do. The

5 percent cut on education that the Governor proposed I thought was a fair thing, because it put the money back into the districts. So I support the Governor's proposal, and I am hoping that the two can sit down and talk. Thank you.

CHAIR OCEGUERA:

Thank you, Mr. Ellison. Miss Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Thank you, Mr. Chairman. I am speaking as part of the freshman class and not from my colleagues, but just on my own. On Saturday I got to hear testimony in Ways and Means, and I went there because I wanted to understand the process. I wanted to hear the testimony myself so that I could go back to my constituents. I was grateful that I got to do that because I may never get the opportunity to sit on Ways and Means, so I was grateful that we were having the discussion. I got to hear the same thing that the leadership was hearing, Mr. Grady, and that excited me. I want for us to be able to talk openly about the decision points. I do not want it to come down from leadership. I want something different for myself, and I want to be able to explain it, on my own without having talking points, and I thought that was what we were going to be able to do here. I want to hear the suggestions from the other side, and I am disappointed. I think we are doing a disservice to the Nevadans by not having the discussion in the open. Thank you.

CHAIR OCEGUERA:

Thank you, Miss Bustamante Adams. Mr. Anderson.

ASSEMBLYMAN ANDERSON:

Thank you, Mr. Chairman. I will be standing in opposition to this motion, first and foremost because two weeks ago, I had a town hall. I had nearly 50 people show up—Republicans, Democrats, everyone—and I sat there and we had a real conversation about what was going on in the session. I told them where we were at with the budget, and not one person—Republican, Democrat, or anyone—said, “Do not raise my taxes.” This is about education; education is so important. This is not 1864. We cannot expect that we are going to lower taxes and businesses are going to come in and set up shop and create jobs. This is the twenty-first century; we live in a globalized world, and we are not going to create jobs by lowering an already low tax burden. If you need evidence, look at the fact that high tech states with better education systems have lower unemployment rates.

So the decision is not about the budget: it is about creating jobs. If we do not fund education where it needs to be at and compete with the rest of the states and other countries, we are going to get caught in the middle, neither winning the race to the bottom nor the race to the top. So with that, I stand in opposition. Thank you, Mr. Chairman.

CHAIR OCEGUERA:

Thank you, Mr. Anderson. Mr. Kirner.

ASSEMBLYMAN KIRNER:

Thank you, Mr. Chair. I feel that we are a bunch of boxes that are boxing ourselves in the corner. I do not think Mr. Clinger or the Governor put together a budget just to see how much we could fight over it. I think, and I am kind of agreeing with Mr. Ellison, we all appreciate education. I certainly appreciate education—I have benefitted by it. I would like to see us increase our spending on it. If there is a way to find more money that does not involve taxes, because that is the issue, you will not get it past the Governor; let us talk about it. I think there is room to talk, but I think there has to be some give and take. At this point, I do not see a plan coming forward. You say, “Here is the plan.” Now we have someplace on the table we can start talking. I think we have to talk—I really, really do. And I think if we can figure out a way to do that without raising taxes, I am for it. If we want to spend less money on the prisons, okay. If we want to spend less money in Health and Human Services, okay. But it is a zero-sum game right now, and I do not know how you get around that. Like I said, I do not think the Governor presented a budget that was designed to be anything but the best he could do with the money that he had, and that is kind of where I am sitting, sir.

CHAIR OCEGUERA:

Thank you, Mr. Kirner. I want to just mention the “Where is the plan?” mantra. The Governor proposes a budget—we do not propose a budget. The Legislature does not propose a budget; we do not propose an alternate budget; we do not propose an alternate plan. The Governor proposes the budget, we look at it, and we make decisions based on points in that budget. We say, we like this, we do not like this, and generally we do not change a lot. And, quite frankly, this time we are probably not going to change a lot. There is no other plan; we are doing it as we have always done it and how it is mandated to us: the Governor presents a budget, we take that budget, and then we modify it.

ASSEMBLYMAN KIRNER:

Mr. Chair, I do not disagree with what you are saying. We are not going to create the budget. But if we are sitting here thinking, “What room is there to move?” that means you are looking for some kind of a modification, and so I am willing to say let us sit down and figure it out, but at the end of the day, it is a zero-sum game.

CHAIR OCEGUERA:

Thank you, Mr. Kirner. Miss Dondero Loop.

ASSEMBLYWOMAN DONDERO LOOP:

Thank you, Mr. Chairman. With all due respect, I am not on Ways and Means, and I received this budget just like everybody else, and I looked through it, and I just have to say that when we talk about people losing those jobs, those are teachers that will lose those jobs, and so I am going to vote for jobs, and I am going to vote to make Nevada stronger, and I am going to vote to value our kids and our future in this state. I think that is the only way we can do it, and if it means we have to compromise, then we will talk about that. But to not want to compromise, to only choose what is on this piece of paper, is not what we came here tonight to do, and I think that is exactly what you were doing, Mr. Chair, was asking us all how we would be willing to compromise by voting. Thank you.

CHAIR OCEGUERA:

Mr. Hardy.

ASSEMBLYMAN HARDY:

Thank you, Mr. Speaker. We all talked about hard decisions that we have to make. Over two years ago I made the toughest decisions I have ever made in my life in one of the toughest times I have ever had in my life. I have laid off over 200 employees in the last 2 1/2 to 3 years—very difficult. You cannot do anything worse than that. These people did not desire it, did not deserve it, or anything else—it was based on the economy. The time is tough; yes it is. But we talk about issues; we have been talking about making jobs in this state; and we wanted to take off one of the issues I believe is a job creator. We will talk about Chapter 40—that creates jobs that pay taxes. When developers are leaving this state and not going to come back because of Chapter 40, we need to look at those types of issues. We have talked about prevailing wage as one of those issues that we need to discuss. None of us wants to really talk about that issue because maybe it fits into our mantra of whoever supports us. But I am a contractor; I have watched over the years that prevailing wage steal from the state, time and time again. How many more schools could we have developed? What kind of hole would we have not been in if we had not paid those kind of wages? I have heard discussions about how that brings up a better, higher class. I am here to tell you it does not. I pay my employees well, and most of the noncollective parties or whatever it is (do not want to use the word union, but I just did) nonorganized labor, continue to pay their employees well. All those issues that unions were put in place to do, such as safety and all the other issues, there out there in the law books. We need to look at those kinds of things—they are protected. The salary: let us go back to being a competitive state. Why are we the highest-paid state, I think there are maybe two or three others ahead of us based on prevailing wage, when we are the lowest when we talk about the lowest in the country for education? Those monies could be put back into education where they need to be.

There are a number of other issues that are on the table out there. I think we need the major reforms, but we have not talked about those yet either. My employees have to work hard and negotiate for their job, and I get to evaluate them based on their performance. Why do not educators, and I want to be very clear about this, and administrators have to make sure that they are based on performance pay. You talk about teachers, but I believe they have been penalized over the years for the lack of administration and supervision with the proper skills. These kinds of issues needed to be discussed weeks ago, they have been out there for a long time. When are we going to start discussing them and make real decisions that will save the money, billions of dollars I believe? Thank you.

CHAIR OCEGUERA:

Thank you, Mr. Hardy. I am going to take two more and then we are going to call for the question. Mrs. Mastroluca.

ASSEMBLYWOMAN APRIL MASTROLUCA:

Thank you, Mr. Chairman. Listening to this conversation, I have jotted down notes, and everyone has different points. We all came into this building a few months ago with ideals of what we expected to accomplish. But the reality is, this is a democracy, and being a democracy means that we have discussion and we go back and forth, and sometimes we have to give up things that we wanted, and sometimes everyone gets a little something that they really wanted. I cannot vote Governor recommended budget because this is a democracy. I have respect for the Governor and the office that he sits in, but it is not his choice to decide what our budget looks like. That is why we are here. I cannot just blindly vote Gov. Rec., Gov. Rec., Gov. Rec., Gov. Rec., and go home, because if that is the reason that you think you are supposed to be here, then we could put anyone in your seat. You are here because we are supposed to have discussions, and we are supposed to talk about the issues.

We are talking about making choices; we are talking about are we going to choose supporting business or are we going to choose supporting education? Are we going to choose supporting education, or are we going to choose health care? These are not all or nothing discussions; this is not a zero-end game. We have to give and take on each one of these issues, because none of us are ever going to agree on what is the number one priority. We can all say education is the number one priority, but there is always someone in the crowd that says, "Yeah, but . . ." This is not the time for "yeah, but . . ."; this is called compromise.

So many of our families are hurting and so many of our constituents are hurting, and we have always talked about how when you do not have enough money at home, what do you do? You go back and you look at your budget, and you cut the things out that you do not need. You cut out the cable, you cut out the extra activities that you do, you cut a little bit here and you cut a little bit there. And we are willing to do that. But, sometimes cutting just is not enough, and that is why my husband goes and gets a second job and that is why my daughter works and that is why I work two jobs, because cutting just is not enough sometimes.

So we are asking our families to do this; I think that we need to step up and do the same. We can only cut ourselves so far out of this. We are not talking about increasing spending in education. I have heard that at least a dozen times in this room. We are not standing up saying that we want to spend \$100 billion on education, money that we have never spent before. We are saying we cannot continue to cut our way out and expect results. I do not want to be the person that has to apologize to kids and tell them I am really sorry that you did not get the education you deserved, but we just did not have enough money. We are all going to have to go back to our constituents and say that if you all vote Gov. Rec., Gov. Rec., Gov. Rec., and I am not willing to do that.

I have a daughter going to college in the fall; she is going to go to UNLV. She wanted to go to school for social work; she recognizes that she will now have to go out of state for social work because there is not going to be a social work program here. I have a son that is a freshman in high school. He lives and breathes for band. I cannot guarantee that he is going to have a band program next year, and it is not just him: it is the 300 other kids in that school that live and breathe for band. We have to look beyond ourselves. This is not about us; this is about the people that we serve; and I ask you, and I beg of you, to think about the people that you serve and think about the people that we all have to go home and answer to and tell them that we

worked together to come up with a compromise to do what we thought was best, not just pushing a button and voting Gov. Rec., Gov. Rec., Gov. Rec.

CHAIR OCEGUERA:

Thank you, Mrs. Mastroluca. Last person: Mrs. Smith.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Chairman. I think everyone in the chambers knows how I feel about education funding: it is pretty clear. But like my colleague Mr. Conklin, I was ready to vote tonight to indicate the areas where I thought I could compromise on cuts, because I know we have to make cuts. We have been making cuts every day. I heard my colleague say there is nothing about this budget we like, but we are going to vote for it anyway. This is only a zero-sum game, if we make it that.

I want to really just talk about the process. This is our job; this is what we are doing. This document you worked off of tonight is the same document that was the budget overview when this session opened. This is not new information. These are the major decision points that were in the K-12 budget when we got here, and these are the major decisions that we have been elected to make. I heard we want, we want, we want; well, when do I get what I want? I have put out reforms; I have sponsored bills; we have passed bills; we have a bill that this body passed that talks about evaluating principals, about bringing principals into the same system teachers are in. We have made major steps toward the educator evaluation process and probationary status and post probationary status. We have done those things in good faith.

I am telling you: we all know that our constituents, the public, expect us to work together and find compromise: they do not expect us to stay in our corners. This is the time, my colleagues, for discussion. This is how we make decisions. We need to figure out how much money we think we need so we can figure out what those paths are. Until we come to an agreement on what we want to cut in the education budget, how do we know what kind of revenue we would need? We are doing things in the right order, and this is how and where the decisions are made, and that is what the public expects of us.

I am surprised, I guess, because I have believed that the time has come for us to start having these discussions and that we owe it to the people who we represent to have those discussions honestly, and we have an opportunity to do this in the open. Again, these decisions that we have to make are no surprise: we have been discussing them for weeks, Mr. Chairman. I have put out the things that I am willing to compromise on as an individual, and I want to know when do I get what I want. Thank you.

CHAIR OCEGUERA:

Thank you, Mrs. Smith. Mr. Goicoechea has made a motion, and Mr. Stewart seconded the motion, that the body vote Gov. Rec. on the eight points. All those in favor vote green, and all those opposed vote red.

[There were 16 yays and 26 nays.]

ASSEMBLYMAN CONKLIN:

Mr. Chairman, I think it is perfectly clear from the board where people are standing. I would like to know if maybe you would entertain an alternate motion. I suppose an alternate motion would be of those who voted no on the previous motion, how many of those would be willing to compromise on some of the points in the original motion, if you would be able to entertain such a motion.

CHAIR OCEGUERA:

I would; however, I do not believe we would be able to do that on the board. We would have to do a show of hands or standing or something. I think it is an appropriate motion. Of those of you who voted no, are there members who are willing to compromise? Do we have second? Second. Discussion on that motion? Mr. Aizley.

ASSEMBLYMAN PAUL AIZLEY:

Thank you, Mr. Chairman. I just want to say that I do not see this as a zero-sum game when the taking of the debt service reserves is going to increase the taxes in Clark County. I do not see how anybody can call it a zero-sum game. We have had more than one testimony from the school people saying that if the debt service money is swept, then Clark County will have to raise its taxes. So that is not a zero-sum game. Thank you.

CHAIR OCEGUERA:

Thank you, Mr. Aizley. Mr. Sherwood.

ASSEMBLYMAN SHERWOOD:

This feels like an episode of the Twilight Zone, seriously. On March 3, our leader put out some things that we would compromise on, and they were given short shrift, and now we have talked about it for four hours and somehow we do not want to compromise. This is disingenuous at best. Are you kidding? As far as when do I get what I want, really? How many bills did we get out, Debbie? The compromise and what do you want and everything else is convenient when we have a forum here and we can try and paint these guys as hating kids, but this is a farce.

CHAIR OCEGUERA:

All right, Mr. Sherwood. I appreciate your comments. However, let us name the five bills that you wish to have available. I believe that the construction defect bill—I have that bill—it is still alive. The PERS reform—I have that bill—it is still alive. Prevailing wage—we have that bill—it is still alive. Tell me your other reforms, because I think I answered all those questions. I do not know if we have a 288 bill; there is a 288 bill on the other side. Mrs. Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Mr. Chairman. Here is the thing. I do not think anybody in this room, and the emotions are fine, I think that at the end of this night, and I think that Mr. Conklin was just trying to say, let us go back and tell our constituents emotions are high tonight, education is important, there are a lot of other issues, but let us just say we are willing to come back and have these discussions again. I do not know about anybody else in this room, but I never mentioned taxes once tonight. What I did say is, as a statesman, I am going to do what is best for the entire state. I am going to think of each and every one of you in this room when we make choices. And if we want to play D.C. politics, well here it is. That is not what makes Nevada unique. What makes Nevada unique is that we can have an open debate; we can get along later; we can compromise; at the end of the day, we all care about this entire state. I do not want to be in D.C. politics. I am in the Nevada Legislature because I care about Nevada.

I think that to say Mr. Conklin's motion was disingenuous is really somebody who does not understand the process. I am not a mean person, but if you push me in a corner and you tell me I cannot represent my constituents and I cannot go home tonight and say that I am willing to compromise . . . listen, I do not like a lot of these. I am willing to compromise. Do I agree that cutting teachers any more is pretty painful? Yes. Do I think that maybe we ought to talk about PERS equalization? Absolutely. I will tell you what: if we are going call out specific names on the floor, I am going to call some names out too, because in Government Affairs, we worked in a bipartisan manner to get things done. In Taxation, we worked in a bipartisan manner to get things done. On the Energy Subcommittee, we worked in a bipartisan manner to get things done. We can sit here and call names all night long, and I am going to win at the end of the day, because people are not going to like what I am going to say.

Let us talk about all the good things that we have done so far. Let us talk about the willingness to compromise. I think Mr. Conklin was absolutely right as his job as the majority leader to try and bring us all back together to do what is best for our state. Mr. Chairman, I do support having that discussion, because I think this institution is going to get lost when we start making it personal. First of all, in committee, I would never refer to my roommate as Debbie, because that is disrespectful to the institution—period. And I think that is disrespectful to everybody here. I address Mr. Ellison as Mr. Ellison; Mr. Goicoechea—I have been calling him that for five years—I have never called him Pete unless I have been in his office, because that is

not the institution. I am here because I respect the institution, and I think that for you freshmen, this is your first time, if you do not respect the institution, do not come back, because you are doing a disservice to the state. I think the majority leader was absolutely right, and if we are not here to compromise, let's go home today, because I cannot do anything different.

And if this is about bills, and this is about hostage, I do not play that game. I am going to win that game at the end if that is what it is about. I have never done that; I have never held anybody's bill hostage; I have never failed to give a fair hearing. I think it is disingenuous in this institution to mark everybody with that saying. If you come with a good bill, you are going to get a fair hearing, but if you come with a stupid bill, we have to evaluate our time. It is about priorities. I have said that to the people on the Senate side before when they said they were going to hear every single bill. I will tell you what: why do you not ask people on Government Affairs or Taxation about sitting in their chairs for 8 hours and 17 minutes last week trying to hear all of our colleagues' bills to decide which ones were the best policy for the state.

I am a policy person. Want to talk policy? Let us have a policy discussion. You want to insult people, you want to violate the institution? Let's talk, because I am ready. I am tired of having closed door conversations. Let's have it right here in the public, because I can debate all of you. So if you do not respect the institution, go home and stay home, because I love Nevada, I respect the institution, and I respect each and every one of you for your opinion in this room.

CHAIR OCEGUERA:

Mr. Hansen.

ASSEMBLYMAN HANSEN:

Thanks, Mr. Chairman. I come from an industry that has 80 percent unemployment. To ask somebody to have a 5 percent pay cut: I have news for you—80 percent of the people who are unemployed in construction would kill to have only a 5 percent pay cut at the moment. So I think we need to look at the bigger picture, and that is while we all agree that we would love to spend more on education, it is not there. The economy that existed in 2005 no longer exists. The base to go after, that revenue, is not there anymore. We have 1 in 17 houses in foreclosure; we have 1 in 7 houses vacant. To go after property taxes, sales taxes, or whatever is going to hit the small people, the little businessman who is just struggling to stay alive. When I got elected, one of the things I was very clearly told was to learn to live within your means, and right now our means are way down and we are going to have to make some tough adjustments. Very few people are going to get laid off, and to have minor pay cuts is not going to be that horrible compared to what everybody else in these industries are facing: 14 percent unemployment overall in the state.

I think also it is very disingenuous to say we are not talking taxes if we do not accept the Governor's recommendations. The fact is, if we do not accept the Governor's recommendations, the only other alternative is to raise revenue through some form of taxation. If we are going to be completely honest in this body, we need to recognize that for those of us who are supporting the Governor's recommendation, what we are really saying is that we do not support additional taxes on people that are already struggling just to keep their heads above water.

With that, out of all of the Republicans . . . the Republicans in the Assembly have been more willing to compromise than our fellow colleagues on the Senate side. We have tried hard to work with these things. You mentioned construction defects: that was my bill—A.B. 285. I was told that the leadership, you, had worked out a deal where that bill, my bill, was going to stay alive; in fact, it is dead. So if we want to have an open discussion and agree to compromise, it has to be done in a state of complete honesty, and in the absence of that, I do not feel real comfortable compromising on some of these things. At this point, I am going to support the motion for Gov. Rec.—I do not know what the new motion is going to be. But until we have the taxes that are going to be raised and who exactly is going to get paid, I do not think we are going to be able to go forward at this point. Thank you very much.

CHAIR OCEGUERA:

Let us go to Mr. Hammond.

ASSEMBLYMAN HAMMOND:

Yes, Mr. Chair. If I am not mistaken, the motion is to have a vote of the subgroup that voted no, and I was wondering if that is appropriate in the Committee of the Whole.

CHAIR OCEGUERA:

I think you can split a question. Mr. Conklin?

ASSEMBLYMAN CONKLIN:

Thank you, Mr. Chairman. I do believe you can split a question, and all we are trying to do is get a sense of where people are. The votes are not binding in any way; we are just trying to get a sense. That is the way we started the whole evening.

CHAIR OCEGUERA:

Yes, it would be similar to being in committee and just having a show of hands on an issue where you are not taking a vote; you are just trying to get a sense of where people are at. Let us go to Mr. Kirner.

ASSEMBLYMAN KIRNER:

Thank you, Mr. Chair. I think that this is a process. And I do not know if we have the old vote that we did along party lines—is that still available? If it is, you could ask your question and say if anyone is willing to have further discussions, they can hit the yellow button, and then you can see how it changes. I do not know if we have that.

CHAIR OCEGUERA:

As I told you, I just had them create a deal that they could flip it up there. I think it was 26-16 if I recall.

ASSEMBLYMAN KIRNER:

You have a good memory, sir. While you are thinking about that, if I could speak to my colleague Miss Kirkpatrick's comments, I have to say I think she has been imminently fair in her committees. I have certainly benefited from that myself, so I give her kudos. I think that she has been a star in that respect, and I appreciate that very much. I think we all like Nevada; I think we all love Nevada. I think we all want the best for Nevada. We are just coming at it from different perspectives, and the task is how can we get those perspectives turned around that we are all at least singing off the same kumbaya sheet, and that is not easy. And we are finding that out right here tonight. I do not know where we go; we seem to be at a stalemate here for the moment, Mr. Chair. Anyway, that is my two cents worth.

CHAIR OCEGUERA:

Thank you, Mr. Kirner. Mr. Carrillo.

ASSEMBLYMAN RICHARD CARRILLO:

Thank you, Mr. Chair. It is kind of ironic that we are having this meeting tonight, this Committee of the Whole. I got an email from one of my constituents today. It was a story called The Blueberry Story. I am not going to go into all the details of it, but what it came down to was that you had an individual who was a businessman who could not believe how schools could run the business or run the school like a business: they would be out of business—there is no way the schools would operate. One teacher posed a question to the businessman, and she asked him, "If you get a bad batch of blueberries that come in a shipment, what do you do with them?" He said, "Well, if they are bad, we send them back. That is good business." But these kids that these teachers have to deal with everyday, the students, the ones that they love and take care of and make sure that they do have an education—they cannot send them back. They are there for the long haul: all these teachers are. We cannot turn our backs on the teachers. It does not matter if they are ADD or ADHD or whatever acronym you want to throw in front of it, they have to take them. And to my colleague Mr. Hansen, I am aware of the 80 percent unemployment rate. I deal with it every day. I have a lot of my union brothers and sisters that are part of that 80 percent; I can totally respect that. By the same aspect, you cannot run a school like a business: it is just not going to work. You have to make sure you take care of every

teacher, every student, and make sure all their needs are taken care of, because they are our future. Thank you, Mr. Chair.

CHAIR OCEGUERA:

Thank you, Mr. Carrillo. Mr. Bobzien.

ASSEMBLYMAN BOBZIEN:

Thank you, Mr. Chairman. As I understand the motion, and certainly that last vote was an indication, and what we have heard, I think it is pretty clear where people are right now. We are just past day 70 here. We are closing budgets; we have already begun closing other budgets; now is the time. But if this is where we are tonight, and Mr. Conklin's motion, as I understand it, is just to say—this is very simple; this is not a farce; this is not a joke—this is simply: We are 42 people in this chamber; are we agreeing tonight to keep talking? We are not asking anyone to bump off of their position; we are just asking, “Are you open to talking?” And so, as such, I am going to support that motion, and I sure hope that if nothing else this evening, that motion can pass unanimously.

CHAIR OCEGUERA:

I do not think that motion can pass unanimously, because I do not think everybody would vote on that one, but maybe we could get a motion that would pass unanimously. Mr. Horne.

ASSEMBLYMAN HORNE:

Thank you, Mr. Chairman. I am sorry to belabor, but I could not go without speaking first of all to Mr. Hansen's concerns about unemployment and Chapter 40. As you know and I know, I have been around for the Chapter 40 debate for quite some time. To go and tear up Chapter 40 today, and a lot of those jobs are not coming back, and it has nothing to do with Chapter 40. We all know what it is about, and it is not like we did not give the bills a hearing. I mentioned that today in my committee: 117 bills referred in my committee, over 90 heard, 80 processed. Bills that went on the board that did not get passed were both Democratic bills and Republican bills. Three of the bills were mine, the Chairman's bills, and I take exception with Mr. Sherwood questioning whether or not we are processing their pieces of legislation. I am a member of two other committees, but I think they will tell you in my committee, people come to me and I tell them right to their face, “No, that bill is not going to happen.” People come to me and I tell them, “I have a problem with the bill, but I am not going to stand in its way.” Mr. Frierson and others in committee helped Mr. Goicoechea with a bill. I have gone to Mr. Goicoechea and said, “Your bill has a problem; we can make this work.” I talked to Mr. Kite about one of his bills and said, “We can get this passed; you have a hang-up right here; if you are willing to do that, we will move your bill.”

So, for Mr. Sherwood to stand up on this floor and make those suggestions is insulting. I am very offended by it, because typically I am not one to throw out the freshman card, but you have to be a member of this body for a little while before you start accusing people of messing with your bills, or not hearing the process and not compromising, calling this procedure a farce. Many of us on both sides of the aisle have been here too long and worked too hard and have stayed here . . . this is your first night making it to 11:00. Do you know how many times we have done this, those of us who have been here for a while? It is not a farce, it is not a game, it is not a show on TV. This is real life.

There are people at home in all of our districts listening to this right now on the Internet or watching it on the Internet, and they are wondering what is going on. Right now, we have a motion about who is going to stand up and be willing to compromise. There is stuff in this thing that I do not like, and if you are here long enough, there are going to be other things you are going to plug your nose and you are going to push the green button. It is going to happen if you are here any long period of time; it happens. And this happens to be one of those things for me. There is stuff in here that I do not like, but I am willing to compromise. And I say that today, and I will get calls, and I will get emails asking, “You are not going to compromise on this are you? You said you were going to compromise on that.” There have been sessions when I have gone home and I have had to explain my votes because I have had to compromise. But that is part of the gig; that is what you signed up for. So to sit here and number one, say we are not

going to compromise, or to sit here and say that this is a farce, you have not paid attention for the limited amount of time you have been here. Thank you, Mr. Chair.

CHAIR OCEGUERA:

Thank you, Mr. Horne. Mr. Livermore.

ASSEMBLYMAN LIVERMORE:

Thank you, Mr. Chairman. Everybody knows I served 12 years on the Carson City Board of Supervisors, and my last 3 years in that seat, we recognized the economy was not what it was at that point in time, and we started making adjustments. We started controlling the budget. We had to prepare a balanced budget also, but some of the decisions were not of the magnitude of here; I will recognize that. But the decisions are still the same. When you sit in that chair, you raise people's taxes or you cut their services; it is still the issue that you are dealing with. We started trimming local government, and one of the things that this institution has not done in the past session or the special session, they kicked the can down the road to us here today. You had some benefit of ARRA funds that came to you to shore up education, and why I say that is this decision should have been implemented and discussed and the elements of that over the last couple of . . . at least when this body has met during the special session and the regular session. I have to tell you that from the business community that I come from, from the people that I know, my neighbors . . . in fact, there are people that I know in that are in their seniors lives when they should be retiring and enjoying the fruits of their benefits are worried about how they are going to stay in their homes, and they are worried about where they are going to get groceries to put on the table; they are worried about the \$4 gas that is coming to be more of a reality. Why I say this is that we, today, have an opportunity to reflect to what the reality of the economy is today and to really look at how we can work and how we can compromise.

I do not think that the Governor's request is that exceptionally hard, and I think Mr. Hickey talked about it from his point of view about his employees. I attended a Builders Association of Western Nevada installation dinner in January, and the Governor was the speaker at that time. I was just there to witness the installation and the building community that I knew, but there were so many contractors, so many individuals in that room that no longer not only had a job, they did not have their company. One of the biggest builders in Carson City that has built a lot of big buildings is no longer the name of his company. He has a job, but he had to merge it with another company in order to sustain itself. So individuals have made tough choices, and I am just saying that as individuals make tough choices, it is this body that needs to make this tough choice. I would love to be able to turn whatever assets I have over for children, because I have always been, maybe not in the element of school, but in parks and recreation and sports programming and those benefits; I have been a champion of young people.

My wife today still is a teacher's aide at a charter school, and she goes to work every Wednesday, Thursday, and Friday and deals with first and second graders. She understands the difficulties that these young children are coming from when they come to school with no lunches and things like that. But that is the family element. If the family element cannot afford bread and peanut butter and jelly, how are we going to ask them to afford additional taxes to pay this potential education? And it is not again, Mr. Chairman, I am very supportive of education. I am a benefit of that and my children are a benefit of that . . . all went to the public school system, all went through college, and me and my wife paid that fully. But today, I guess I plead to my colleagues in this institution here to at least be able to have some dialogue about where we need to go, what we need to fund, and what reality is in the issue that we face in this economy today. Thank you.

CHAIR OCEGUERA:

Thank you, Mr. Livermore. I would say two things: I agree with a lot of what you said. I agree that we have kicked the can down the road on a number of occasions, but I cannot agree with you that we did not in the last session and the last special session make a lot of cuts. We took that responsibility very seriously and did a lot of cuts. Did we kick the can down the road on the revenue side by taking ARRA money and doing those kinds of things? Could not agree with you more. Miss Diaz.

ASSEMBLYWOMAN OLIVIA DIAZ:

Thank you, Mr. Chairman. I am just perplexed that we just had this Committee of the Whole, we had the different representatives from the school districts come and testify in front of us, give us the realistic information, the data that we need to make an informed decision, and I have been hearing we do share common ground. I have been hearing we want education reform. From one of us who works in the trenches in the education field, you cannot have reform if you are not going to fund it adequately. We have been hearing a lot in the Education Committee about Florida and the wonders that Florida is doing with the similar demographics and population that the state of Nevada has, yet we are not willing to step up to the plate and fund as Florida has funded. I have heard that we want to end social promotion, but then we are saying to cut full-day kindergarten. We are being very regressive in these measures that we are taking, and if we are seeking reform without really putting our brain into it, I think we are defeating the whole purpose of being here.

I know that all of our constituents elected us because we are intelligent people, and we are here to represent their best interest, and I cannot go home saying that we could not find middle ground; that we have to go forward with these Governor's recommendations that I know will not do much good, at least not in Clark County, not with the populations that I serve day to day. Maybe we are running on fumes and on emotions right now because we have not been well fed and it is late. But really think about it. I think there is lots of commonalities: we just have to find how we can meet each other without impacting the future of our state, which I hold deeply to my heart, and it is the children. I am a product of public education, and I want the children that are coming behind us to have the same opportunities that I had once. I have heard it tonight from all different representatives from different school districts, that if we continue forward with this agenda, we are not going to offer that to our children, so I will leave you with those words. Thank you.

CHAIR OCEGUERA:

Thank you, Ms. Diaz. We are going to have two more and that is it. There is a motion on the floor. So we will go with Mr. Ellison.

ASSEMBLYMAN ELLISON:

Thank you, Mr. Chairman. You know, we did have a dialogue tonight, and it was mostly the teachers. We are talking about the whole Governor's budget: where was the business community and the people at large? We did not have that tonight. We had the school district—that is all we had in here speaking. With respect for Miss Kirkpatrick and some of the others in the room I have the highest regards for, who I consider my friends and my colleagues, but I can tell you when our representative, Mr. Goicoechea, was pushed in a corner when he said let us wait and talk about this, that did not happen. I think we threw him under the bus, you pushed him a corner, and said this is what it is going to be or it is going to be nothing. You cannot blame just Republicans, because we are on one side; the Democrats are on the other side. I say that you take nothing, and you put Mr. Goicoechea, the Chairman, and the Governor together and talk about stuff that could be deducted and changed for instead of where we are going right now. But, really, tonight we heard from teachers; we did not hear from corporations; we did not hear from businesses; we did not hear about anything else in that Governor's budget other than education. That is why I am saying we did not have a full dialogue. That is the way I feel. Thank you.

CHAIR OCEGUERA:

Thank you, Mr. Ellison. Last comment, Mrs. Smith.

ASSEMBLYWOMAN SMITH:

First I want to say that no one in this body in any one party owns the pain we feel about jobs or the economy. We all know people out of work. I have told the story countless times about my son-in-law who is now in his sixth state in two years working out of state to take care of his family. I want him to come home. So none of us get to own that.

Those of us who have been here for a few years do feel the pain of what we have been doing. To Mr. Livermore, we have probably kicked the can down the road some, but we have also

eliminated hundreds of millions of dollars from the budget, and we have eliminated hundreds and hundreds of jobs. In fact, this budget kicks the can down the road by about \$1 billion, and that is a fact. So those are the tough decisions we are faced with.

Tonight we were not talking about taxes, we were talking about the K-12 budget and, again, closing it in or discussing it in a work session in the same way we would have. What I would like to say is this is the beginning, this is not the end. We are a little more than half-way through this process; we are not at a stalemate, because this was the first tough discussion we have had, right? The first discussion we have had, and there will be more. We were sent here to make very difficult decisions.

We cannot call each other disingenuous because we disagree. I have been called that twice in the last week over a difference of opinion on this floor. That should not happen just because we have a difference of opinion. We need to respect each other, and we need to continue working together. We have a long row to hoe in the next several weeks, and this is the first of many difficult discussions. It is not a farce; it is not a train wreck as some people out there are calling us. We are human beings who have passion about what we believe in, about the state that we dearly love, and the constituents who we represent. So I ask that we all take this discussion tonight for what it was worth: a very informative discussion for people who had not heard this budget before. I need to reiterate: it is not a 5 percent cut. You heard it yourself: it was 5 and 5 and 5 and then some. So that was the point of having this discussion tonight: to make sure that all of our members knew where we stood with this K-12 budget.

So let us take a deep breath. Let us remember who we are and why we came here, and let us come back and do this again. I am willing to compromise; I have said it over and over and over, and I have demonstrated it. To my colleague, I thought I probably made it sound like I was being facetious about when do I get what I want; I was referring to this budget, because I feel like I am giving up plenty in this budget. I know I have to cut this K-12 budget; I know I have to cut veterans' services; I know I have to cut Family-to-Family; I know I have to eliminate hundreds of jobs. We all have to do that, and we will do this together.

So, I ask Mr. Chairman, that if we are going to take some final position, we do that. I am willing to stand up on this floor right now and say I am willing to compromise, are you? And then let us take a deep breath, let us get something to eat, and let us come back, because Ways and Means meets at 7:30 tomorrow morning. Thank you, Mr. Speaker.

CHAIR OCEGUERA:

Thank you, Mrs. Smith. I said that was the last one, but Mr. Stewart, I have seen your light go on and off all night and you have not spoken. So I am going to take a risk here, and I am going to call on you.

ASSEMBLYMAN STEWART:

Thank you, Mr. Chairman, I have been undecided of what to say, but I just want the Democratic leadership to know that I respect them: the Assistant Majority Leader, the Majority Leader, and you. I think you have conducted yourselves very well tonight in a very trying difficult circumstance, and I think we have actually been quite agreeable in a disagreeable situation. I know we all love Nevada, I know you love Nevada, I know Mr. Goicoechea loves Nevada, and all those who have spoken love Nevada. I, for one, am willing to continue talking as the Chairman of Ways and Means has said, and I think as we talk, we will get a little more quiet and perhaps tomorrow will be a brighter day. Thank you, Mr. Chairman.

CHAIR OCEGUERA:

Thank you, Mr. Stewart. There is a motion on the floor. The motion I believe is for those of you who voted no on the previous motion, is there room to compromise? So those who voted no on the previous motion, if you would stand if you are willing to compromise.

Okay. I am willing to entertain any more motions. Mr. Conklin.

ASSEMBLYMAN CONKLIN:

Mr. Chair, if I may, just a couple of remarks. Maybe there is another motion. I do not want to belabor the point because I know it is late, but I will also say I know it gets heated sometimes. We are all passionate; we are not in a place we want to be. That is not just here at 11:30 on a

Tuesday night trying to find out where we go from here, but you know, times are tough: we all recognize that. I know there have been some remarks that some people have taken personal, and for that, on behalf of everybody to everybody else, I apologize. It is not in the nature of this body. To my colleague Mr. Stewart, as always, you are gracious and I appreciate that, and I will let you know that there is enormous mutual respect for all of your leadership team from all of ours, too. I know Pete's being awfully quiet over there, but that means you, too.

Mr. Speaker, if I may, maybe we need to try a compromise motion, one that just says if you are willing to compromise what we have got to move somewhere. It is not going to be easy, but we need to know who in this body is willing to stand up and say, "I am willing to compromise." I do not know if that can be placed in a motion, or stand, or board or what, instead of limiting. Maybe nobody wants to do that. I will leave it to my colleague to the right.

CHAIR OCEGUERA:

Mr. Goicoechea.

ASSEMBLYMAN GOICOECHEA:

Thank you, Mr. Chair. You know, at this point, I think we can stay here another 30 or 40 minutes. There is no doubt that everyone in this body is willing to look for a solution. There are just some questions we need answered, and I know there are some questions on your side you need answered. Then we get to the real game, and there are some questions on the other side of this building that need to be answered by the other body. So it is not something we are going to resolve in the next 35 minute here with, I am sorry, a warm and fuzzy motion. The bottom line is we have some work to do. Thank you.

Exhibit A is the agenda. Exhibit B is the attendance roster.

Exhibit C

**ASSEMBLY COMMITTEE OF THE WHOLE
WORK SESSION ON GOVERNOR'S BUDGET PROPOSAL FOR K-12 EDUCATION**

K-12 EDUCATION 1–26, Volume I

Overview

The budget accounts for K-12 education include the Distributive School Account (DSA), the School Remediation Trust Fund, Incentives for Licensed Education Personnel, Other State Education Programs, the Educational Trust Fund and the State Supplemental School Support Fund.

The table below compares state K-12 education funding approved in the 2009 Legislative Session, and as adjusted by the 26th Special Session (2010), with the Governor's recommended state K-12 education funding for the 2011-13 biennium (prior to the submission of budget amendments):

K-12 Education State Funding	(millions)			(millions)			(millions)			% Change	
	Leg Approved			26 th Special Session			Gov Recommend			Gov Rec to	Gov Rec to
	2010	2011	2009-11	2010	2011	2009-11	2012	2013	2011-13	Leg App	26 th SS
DSA (Total State Share) ¹	1,360	1,431	2,791	1,332	1,318	2,650	1,036	1,018	2,054	-26%	-22%
Remediation Trust Fund ¹	26	25	51	26	25	51	170	191	361	608%	608%
Licensed Teacher Incentives ¹	-	25	25	-	25	25	13	12	25	1%	0%
Other State Education Programs ¹	10	9	19	10	9	19	-	-	-	-100%	-100%
Total State Funding K-12 Education	\$ 1,396	\$ 1,490	\$ 2,886	\$ 1,368	\$ 1,377	\$ 2,745	\$ 1,219	\$ 1,221	\$ 2,440	-15%	-11%

¹Comparisons are impacted by transfers recommended in The Executive Budget within K-12 budgets.

K-12 Budget Amendments – Between March 23, 2011, and March 28, 2011, the Administration submitted seven budget amendments affecting the Governor's recommendations for K-12 funding that result in net General Fund increases of \$42.4 million for FY 2012 and \$29.5 million for FY 2013. A discussion of the amendments is incorporated into the pertinent sections of this document and Attachment A is a table detailing the amendments. Attachment B reflects a summary of the DSA (prepared by the Executive Budget Office [EBO]) that also reflects the

applicable budget amendments. A summary of major K-12 funding reductions recommended in The Executive Budget, as amended, is included as Attachment C.

Distributive School Account

The DSA is the budget through which the State distributes direct financial aid to local school districts. The Legislature determines the level of state aid for schools, and each district's and charter school's share is developed through a formula called the "Nevada Plan," which allows for differences across districts in the costs of providing education and in local wealth. It is important to recognize that the DSA budget does not include the entire funding for K-12 education, but rather includes only the State's portion of the school district and charter school operating funds.

Enrollment

Each school district's guaranteed level of funding is determined by multiplying the basic support per pupil by weighted enrollment. Weighted enrollment equals a full count of pupils enrolled in grades 1 through 12, net of transfers, and includes children with disabilities enrolled in special education programs within a district or charter school, and six-tenths of the count of pupils enrolled in kindergarten or programs for three- and four-year-olds with disabilities. Handicapped preschoolers and kindergarten pupils are only counted as six-tenths of a pupil because they typically attend school for half a day or less. The following chart compares audited weighted enrollment numbers by fiscal year and the percent of increase each year over the preceding year:

FY 2004 Actual	FY 2005 Actual	FY 2006 Actual	FY 2007 Actual	FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Proj.	FY 2012 Gov. Rec.	FY 2013 Gov. Rec.
373,498	387,834	400,101	413,260	420,830	422,112	421,387	422,570	423,192	424,460
4.14%	3.84%	3.16%	3.29%	1.83%	0.30%	-0.17%	0.28%	0.15%	0.30%

Basic Support Per Pupil

The 2009 Legislature approved Basic Support per pupil of \$5,251 for FY 2010 and \$5,395 for FY 2011, which was reduced to \$5,186 and \$5,192 per pupil, respectively, as a result of budget reductions approved by the Legislature during the 26th Special Session. The Executive Budget, as amended, recommends guaranteed basic support of \$4,877 per pupil for FY 2012 and \$4,878 for FY 2013. The chart below compares the increases and decreases of the statewide average guaranteed basic support funding by fiscal year since 2004:

FY 2004 Act.	FY 2005 Act.	FY 2006 Act.	FY 2007 Act.	FY 2008 Act.	FY 2009 Act.	FY 2010 Act.**	FY 2011 26 th SS	FY 2012 Gov. Rec.	FY 2013 Gov. Rec.	FY 2012 Amend. Gov. Rec.	FY 2012 Amend. Gov. Rec.
\$4,298	\$4,433	\$4,490	\$4,699	\$5,125	\$5,212	\$5,186	\$5,192	\$4,918	\$4,918	\$4,877	\$4,878
\$311	\$135	\$57	\$209	\$426	\$87	(\$26)	\$6	(\$274)	\$0	(\$41)	\$1

** As a result of an approved 6.9% funding budget reduction in the 26th Special Session, the basic support per pupil was reduced \$65 per pupil from \$5,251 to \$5,186 in FY 2010 and \$203 per pupil from \$5,395 to \$5,192 in FY 2011.

The guaranteed basic support per pupil should not be confused with expenditures per pupil. As stated earlier, other resources not considered within the Nevada Plan are also available to cover schools' operating costs. For example, in FY 2010, the statewide average basic support for Nevada was \$5,186 per pupil; however, according to the Education State Rankings 2010-2011 CQ Press, 2011, the average expenditure per pupil in Nevada was \$7,951 that year (excluding capital outlay and debt service).

Recommendations Resulting in Budget Reductions to Basic Support Per Pupil

As noted above, the funding reductions recommended by the Governor, as amended, result in average per pupil basic support of \$4,877 and \$4,878 per pupil for FY 2012 and FY 2013, respectively, which is a decrease of approximately \$518 from the average per-pupil basic support of \$5,395 approved by the 2009 Legislature and a decrease of approximately \$315 from the average per-pupil basic support of \$5,192, as adjusted by the 26th Special Session. The specific funding recommendations resulting in reductions to basic support per pupil are outlined as follows:

A. Five Percent Reduction of Funding for Salaries

Consistent with the salary reduction recommendation for state employees, the Governor recommends a 5 percent reduction of funding for salaries for school employees effective July 1, 2011. The recommendation, inclusive of budget amendments, results in a General Fund reduction to the DSA of \$127.0 million in FY 2012 and \$129.5 million in FY 2013.

School district and charter school salaries are not determined by the Legislature, but rather are determined by each school district and charter school. Although the Governor's recommendation may have an impact on the funding level for salaries of school district and charter school personnel, the actual salary impact is uncertain since the employee groups are subject to collective bargaining. If the Governor's recommendation to reduce salaries for school personnel is approved by the Legislature, but school districts and charter schools are unable to reduce salaries by that amount through collective bargaining, the school districts and charter schools would need to reduce other expenditures as a result.

Although funding for salaries for the current biennium was reduced 4 percent, much of this reduction was addressed by the districts through means other than salary reductions.

B. Suspend Funding for Merit Salary Increases

The Executive Budget recommends the suspension of funding for merit salary increases for the 2011-13 biennium, resulting in General Fund savings of \$47.2 million in FY 2012 and \$95.4 million in FY 2013.

For the 2009-11 biennium, the Governor recommended the suspension of merit salary increases for all state employees and school personnel. School district and charter school personnel are eligible for a merit increase each year based on years of service and attaining additional education experience. Merit increases are, therefore, the primary mechanism for recognizing experience and the acquisition of additional qualifications. The 2009 Legislature approved the Governor's proposal and suspended merit salary increases for all state employees, except that the Legislature restored funding for merit increases for licensed educators who obtain additional education experience. This recommendation also reduces funding for school districts and charter schools for employee compensation that will be subject to collective bargaining.

C. PERS Equalization

The Executive Budget, as amended, recommends a reduction in funding for school district and charter school employees of approximately \$100.2 million in FY 2012 and \$100.5 million in FY 2013 representing an employee contribution of 5.3075 percent, to the Public Employees' Retirement System.

By comparison, state employees who elect the employer-paid PERS option receive a salary reduction of 10.615 percent as their contribution to PERS with the State paying the full PERS contribution. Presently, though school district and charter school employees participate in the employer-paid PERS, funding for salaries is not reduced in the DSA for the employee contribution to PERS. Just as with salaries, this recommended reduction in compensation would be subject to collective bargaining.

D. General Budget Reduction to Basic Support Per Pupil

The Executive Budget recommends reductions in guaranteed basic support funding totaling \$121.0 million in FY 2012 and \$117.2 million in FY 2013, which, based on projected enrollment, equates to a per pupil funding reduction of \$286 and \$276 for FY 2012 and FY 2013, respectively. The Governor's amended basic support per pupil of \$4,877 for FY 2012 and \$4,878 for FY 2013 reflects the proposed reductions. The EBO indicates that the reduction amounts were determined based upon general budget reduction targets.

Recommendation to Utilize Excess School District Debt Service Reserves

The Executive Budget, as originally recommended, proposed to utilize school district debt service reserves totaling \$425.0 million as local funding available for operating purposes over the 2011-13 biennium. The 2009 Legislature, during the 26th Special Session, approved the use of a total of \$45 million of Clark County School District capital projects funds as local funds available for operating purposes during the 2009-11 biennium.

During the K-12/Higher Education Joint Subcommittee hearing on February 24, 2011, the EBO acknowledged discrepancies between the estimates of excess debt service reserves available for transfer used during the construction of the budget and the total amount of debt service reserves proposed for transfer in the Governor's recommended budget. On March 28, 2011, the EBO submitted a budget amendment that reduces the excess debt service reserve transfer recommended in The Executive Budget from \$425.0 million to \$301.9 million over the 2011-13 biennium, a reduction of \$123.1 million. Based on the amendment, the projected debt service reserves available for transfer from rural school districts would be \$27.8 million over the biennium, while the projected amounts for both Clark and Washoe County School Districts would be \$220.3 million and \$53.8 million, respectively.

In collaboration with school district representatives, Fiscal staff is in the process of analyzing supporting documentation provided by the EBO and all available information to verify the amount of excess debt service reserves that would be available for operating purposes, should the Legislature ultimately decide to approve the Governor's recommendation. Fiscal staff will advise of the results of its analysis prior to closing the budget.

The following sections describe recommendations included in The Executive Budget, as amended, for categorical funding included in the DSA, but not part of the basic support guarantee:

Special Education

Nevada provides state funding for special education based on special education program units, which are defined by NRS 387.1211 as organized instructional units in which a licensed, full-time teacher is providing an instructional program that meets minimum standards prescribed by the State Board of Education. To qualify for a full apportionment, a unit must have operated the full school day (330 minutes) for at least nine of the school months within a school year. For each year of the 2009-11 biennium, the State is funding 3,049 special education units at \$39,768 each, for a total cost of \$121.25 million each year.

For the upcoming biennium, the Governor's recommendation for special education units, remains flat at 3,049 units at a cost of \$39,768 each or \$121.25 million each year of the 2011-13 biennium. It should be noted that the amount school districts receive per special education unit from the DSA does not cover the entire cost of a special education teacher, but rather covers only a portion of the cost. The remainder of the cost of providing special education programs is covered by per-pupil basic support guaranteed by the DSA, other school district revenues and federal funds earmarked for special education.

Class Size Reduction

During the 21 years that the Class Size Reduction (CSR) program has been implemented in the State, funding totaling \$1.7 billion has been approved to support additional teachers to reduce

pupil-teacher ratios. To finance salaries and fringe benefits of teachers hired to meet the required ratios of 16:1 in first and second grades and 19:1 in third grade, the 2009 Legislature appropriated a total of \$144.3 million for FY 2010 and \$145.9 million for FY 2011.

The Executive Budget, as amended, includes funding for CSR totaling \$135.3 million (inclusive of the recommended funding reductions related to salaries) for FY 2012, and \$136.3 million for FY 2013, representing decreases of 6.2 percent and 6.6 percent, respectively, over legislatively approved funding of \$144.3 million for FY 2010 and \$145.9 million for FY 2011. The Administration submitted a budget amendment to make technical corrections to the recommended CSR funding. The Executive Budget, as amended, also recommends the transfer of all CSR funding for FY 2013 (\$136.3 million) to the proposed Student Achievement Block Grant (SABG) described in more detail on page 5 of this document.

Adult High School Diploma Program

Each session the Legislature determines an amount of funding for Adult High School Diploma (AHSD) programs for the general public and for inmates within prison facilities. For the 2011-13 biennium, The Executive Budget originally recommended funding of \$21.6 million for FY 2012 and \$23.0 million for FY 2013 (inclusive of the recommended salary-related funding reductions).

The Executive Budget, as amended, recommends \$16.3 million in FY 2012 and \$16.7 million in FY 2013 to support the AHSD programs for the upcoming biennium. The Administration submitted a budget amendment to update enrollment growth projections based on actual enrollment versus projected enrollment for FY 2010. The Governor's budget retains the funding for the AHSD program as a line item in the DSA.

Early Childhood Education

The Executive Budget recommends \$3.34 million in FY 2012 and \$3.35 million in FY 2013 to continue the Early Childhood Education (ECE) program, which represents a 0.30 percent increase over funding approved for the 2009-11 biennium. Additionally, The Executive Budget, as amended, recommends transferring \$3.35 million in FY 2013 to the proposed SABG program, where ECE programs would become optional.

Regional Professional Development Programs

The 2009 Legislature approved the consolidation of the four existing professional development regions to three (Northwestern, Northeastern and Southern) with a budget of \$7.9 million each year of the 2009-11 biennium. The approved funding included \$100,000 each fiscal year designated to provide additional administrator training.

The Executive Budget, as amended, recommends General Funds of \$7.4 million each year of the 2011-13 biennium to continue the Regional Professional Development Programs (RPDPs), including the Nevada Early Literacy Intervention Program (NELIP), and special administrator training programs. The Administration submitted a budget amendment to apply the salary-related reductions to the RPDPs. Additionally, the Governor recommends transferring all funding for the RPDPs from the DSA to the School Remediation Trust Fund account (with no change in purpose) in order to preserve the DSA budget account for apportionment funding.

School Remediation Trust Fund

A. Recommendation for a New Student Achievement Block Grant

The Executive Budget recommends a new SABG program for the 2011-13 biennium. Under the Governor's proposal, the SABG program would combine funding for the majority of categorical programs included in four budgets – DSA (BA 2610); Remediation Trust Fund (BA 2615); Incentives for Licensed Educational Personnel (BA 2616); and, Other State Education Programs (BA 2699) – into a block grant with the goal of providing flexibility to school districts, while increasing student achievement.

The Executive Budget, as amended, also recommends a 5.4 percent General Fund reduction for the SABG program of \$7.4 million in FY 2013, and postpones the implementation of the SABG program until July 1, 2012. Recommended funding transfers (net of proposed budget reductions) total \$161.6 million in FY 2013

The Governor's recommendation, as amended, would transfer the following program funding to the SABG in the second year of the 2011-13 biennium (FY 2013):

Original Budget Account	General Fund Programs		Total		Amended*	
	Recommended for Transfer to the Student Achievement Block Grant	Gov Rec FY 2012	Gov Rec FY 2013	2011-13 Biennium	Gov Rec FY 2013	Total Amended* 2011-13 Biennium
2610	Class Size Reduction (CSR)	134,348,070	135,858,088	270,206,158	134,783,440	134,783,440
2610	CSR At-Risk Kindergarten	1,499,962	1,506,080	3,006,042	1,494,023	1,494,023
2610	Educational Technology for Gifted & Talented	171,060	175,004	346,064	152,420	152,420
2610	Early Childhood Education	3,343,791	3,353,814	6,697,605	3,353,814	3,353,814
2610	Special Elementary Counseling	850,000	850,000	1,700,000	850,000	850,000
2610	School Library Media Specialist	18,798	18,798	37,596	18,798	18,798
2610	Special Transportation	128,542	128,542	257,084	128,542	128,542
2615	Full Day Kindergarten	21,141,740	20,621,415	41,763,155	20,621,415	20,621,415
2616	Incentives for Licensed Education Personnel	4,193,250	-	4,193,250	-	-
2699	Educational Technology	1,912,241	1,912,241	3,824,482	1,912,241	1,912,241
2699	Career & Technical Education	3,543,822	3,543,822	7,087,644	3,543,822	3,543,822
2699	Counselor Certification	668,742	668,742	1,337,484	668,742	668,742
2699	Speech Pathologist	526,785	526,785	1,053,570	526,785	526,785
2699	LEA Library Books	449,142	449,142	898,284	449,142	449,142
2699	Other Program Funding	855,179	462,850	1,318,029	462,850	462,850
	5.4 % Reduction to Student Achievement Block Grant	(11,330,650)	(7,374,874)	(18,705,524)	(7,374,874)	(7,374,874)
Total Transfer to the Student Achievement Block Grant		\$ 162,320,474	\$ 162,700,449	\$ 325,020,923	\$ 161,591,160	\$ 161,591,160

* Budget Amendment 237, eliminates the 5.4 percent budget reduction to the SABG for FY 2012 and postpones the implementation of the SABG program to FY 2013.

The Administration has indicated that the SABG would provide districts and charter schools the flexibility to choose which programs to fund to meet their specific needs, which may include existing programs; however, schools would no longer be required to utilize the funding for specific programs designated by the State.

B. Recommendations to Reduce Funding for Full-Day Kindergarten

Since FY 2007, state funding has been provided to support 464.5 full-day kindergarten positions in 128 elementary schools statewide. Schools selected are determined to be at-risk based upon a free and reduced lunch count of pupils of at least 55.1 percent of the student enrollment. School districts are not required to offer full-day kindergarten and parents may request their child attend for less than a full-day.

The Executive Budget proposes General Fund budget reductions of \$1.98 million for FY 2012 and \$2.51 million for FY 2013 for the State Full-Day Kindergarten program. Additionally, the Governor recommends salary-related budget reductions (5 percent salary, merit increase suspension and PERS equalization) totaling \$3.1 million in FY 2012 and \$3.6 million in FY 2013. Inclusive of the proposed budget reductions, the Governor recommends General Funds of \$21.1 million in FY 2012 and \$20.6 million in FY 2013 to continue support of the State Full-Day Kindergarten program. The Executive Budget, as amended, also recommends the transfer of state funding for the State Full-Day Kindergarten program (\$20.6 million) to the proposed SABG in FY 2013.

C. Recommendation for a New Teacher Performance Pay Program

The Executive Budget recommends a General Fund appropriation of \$20 million in FY 2013 to support a new Teacher Performance Pay program effective July 1, 2012. Assembly Bill 557 is the enacting legislation for the Governor's proposal.

Although the 2007 Legislature appropriated \$10.0 million over the 2007-09 biennium to support performance pay programs, as outlined in Assembly Bill 3 (2007), due to budget reductions, all funding was subsequently eliminated. The 2005 Legislature also appropriated funding for performance pay programs. Section 69 of Assembly Bill 580 (2005) appropriated \$10.0 million to the Department of Education to grant to school

districts that adopted a performance pay program and enhanced compensation for the recruitment, retention and mentoring of licensed personnel.

During the March 31, 2011, work session of the K-12/Higher Education Joint Subcommittee, members of the Subcommittee expressed support for a Teacher Performance Pay program although several members expressed concern that given the magnitude of the proposed budget reductions to K-12 Education for the 2011-13 biennium, it may not be the appropriate time to fund such a program. Some members of the Subcommittee suggested the \$20 million of recommended General Funds could instead be used to offset other K-12 budget reductions.

State Supplemental School Support Fund

Recommendation to Defer Proceeds from the IP 1 Room Tax to the General Fund

The State Supplemental School Support Fund was created by Initiative Petition 1 (IP 1), which became law in 2009 pursuant to Article 4, Section 35 of the Nevada Constitution. Initiative Petition 1 imposes an additional 3 percent tax on the gross receipts from the rental of transient lodging in certain counties as specified in the legislation. For the period of July 1, 2009, through June 30, 2011, the proceeds of this tax must be credited to the State General Fund. Per NRS 387.191, beginning on July 1, 2011, the proceeds must be credited to the State Supplemental School Support Fund to be distributed to school districts and charter schools to improve the achievement of students and to retain qualified teachers and non-administrative employees.

The Governor recommends the proceeds from the IP 1 Room Tax revenue, budgeted at \$107.7 million for FY 2012 and \$113.8 for FY 2013, be directed to the General Fund through the 2011-13 biennium after which time the revenues would be credited to the State Supplemental School Support Fund. The IP 1 Room Tax revenue for FY 2011 will be reforecast by the Economic Forum on May 2, 2011. The May 2 forecast for FY 2011 will be used to update the projected revenues for FY 2012 and FY 2013.

Incentives for Licensed Educational Personnel

Nevada Revised Statutes 391.166 creates a Grant Fund for Incentives for Licensed Educational Personnel and requires each school district to establish a program of incentive pay for licensed educational personnel designed to attract and retain those employees. The 1/5 Retirement Credit Purchase program, under grandfathered provisions, will conclude in FY 2013

The Governor recommends a General Fund reduction of \$5.1 million in FY 2012 and \$10.3 million in FY 2013 based on the amount of funding projected to be needed for 1/5 Retirement Credit Purchase costs in each year of the 2011-13 biennium. In addition, The Executive Budget reduces funding for the Incentive Grant awards in FY 2012 by \$1.9 million and eliminates the Incentive Grant awards beginning in FY 2013 resulting in a General Fund savings of \$6.1 million.

Inclusive of the funding reductions of \$3.2 million in FY 2012 and \$4.2 million in FY 2013 based on projected costs, The Executive Budget recommends funding for the 1/5 Retirement Credit Purchase program in the amount \$13.0 million in FY 2012 for retirement credits earned in FY 2011 and \$12.1 million in FY 2013 for retirement credits earned in FY 2012. The Executive Budget, as amended, recommends General Fund support for the Incentives for Licensed Education Personnel at \$4.2 million in FY 2012 (only) for eligible incentives earned in FY 2011.

Other State Education Programs

The 2009 Legislature approved General Funds totaling \$10.3 million in FY 2010 and \$9.4 million in FY 2011 to provide pass-through funds to school districts for the Apprenticeship program, Educational Technology, Library Database, Career and Technical Education (CTE), Public Broadcasting, the National Board Certification program for teachers and counselors, and the Speech Pathologist increment, in addition to various other smaller programs.

The Executive Budget recommends budget reductions resulting in General Fund savings totaling \$1.1 million in FY 2012 and \$1.0 million in FY 2013, prorated among all programs. The Executive Budget, as amended, recommends the transfer of program funds totaling \$7.56 million in FY 2013 to the proposed SABG program, and the transfer of \$1.3 million over the 2011-13 biennium to other state agencies to better align funding with program goals.

On motion of Assemblyman Conklin, the committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 11:25 p.m.

Mr. Speaker presiding.

Quorum present.

Assemblyman Conklin moved that upon return from the printer, Assembly Bills Nos. 212, 221, and 374 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Conklin moved that Assembly Bills Nos. 150, 318, 329, 393, 403, 455, 477, 535, and 551 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Resolution No. 8.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Aizley, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Roger Bremner.

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Ruby Caliendo.

On request of Assemblywoman Benitez-Thompson, the privilege of the floor of the Assembly Chamber for this day was extended to Angela Foremaster and former Assemblyman Bud Garfinkle.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Tod Bedrosian.

On request of Assemblywoman Carlton, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Douglas Bache.

On request of Assemblyman Daly, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblymen Bernie Anderson and Artie Valentine.

On request of Assemblywoman Diaz, the privilege of the floor of the Assembly Chamber for this day was extended to Jon Herring, Tyra Tripp, Lameisha Tripp-Herring, Nicole Tripp-Herring, and Alexa Tripp-Herring.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Thalia Dondero and Annie Shaver.

On request of Assemblyman Ellison, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman John Carpenter.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Robert Weise.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblywoman Patty Cafferatta and the following students and chaperones from Dayton Elementary School: Kassandra Acosta, Alexander Spencer, Ali Alfano, Russ Alfano, Alyssa Anderson, Brittney Anderson, David Anderson, Alessandra Bartucci, Autumn Blattman, Dallas Boone, Catherine Bowling, Elizabeth Bounds, Jacqueline Canas, Jasmine Canas, Morgan Claypool, Kourtney Collins, Kennidy Creswell, Larrissa Cruzan, Faith Delfin, Madison deWet, Elvia Diaz, Shelby Donovan, Alyssa Eissenbeiss, Hanna Elissa, Kennedy Evins, Kristin Fukagawa, Cameron George, Rachel Hadley, Shay Hamblin, Laurel Hunt, Jonathon Joyner, Hannah Johnson, Jared Logan, Harrison Masters, Sydney Mills, Danielle Myers, Stephanie Parra, Kerra Pinter, Shalia Powell, Lily Powers, Cassidy Ramirez, Madison Reid, Ashley Reutzel, Zack Scott, Michael Selmi, Angela Sikora, Olivia Smihula, Shea Starbuck, Cheyanne Strong, Katie Turner, Gretchen Voelker, Tess Voelker, Caroline Vosburg, Oakley Workman, Anne Jolly, Maria Sauter, Kathy Robson, Maria Bowling, Chad Bowling, Jonelle Elissa, Tammy Johnson, Lauryn Bailey, Jessica Matthews, Tyler Peterson, and Alyssa Rainey.

On request of Assemblyman Hammond, the privilege of the floor of the Assembly Chamber for this day was extended to Tomas Hammond and former Assemblyman Chad Christensen.

On request of Assemblyman Hansen, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Brooks Holcomb and the following students and chaperones from Whitehead Elementary School: Makenna Alford, Maicaila Anderson,

Zoe Bloom, Sue Bowen, Alexandra Boyd, Brian Davis, Syra Ellison, Madison Eng, Samantha Estrada, David Flores, Gillian Grant, Jayden Hauder, Jared Key, Rhyann Kindrick, Tristan Morrell, Randy Nemedez, Andrew Quispe, Matthew Romine, Frank Rowe, Ciana Saldano, Josh Salgado, Ciana Sedano, Jocelyne Serafin, Rebecca Sheehe, Hayli Spencer, Brooke Stokes, Larry Tongol, Alan Villa, Zachary Virtue, Monte Abel, Jocelyn Aiello, Hope Avila, Kaiden Bennett, Michael Bonnell, Jasmine Braun, Rachel Bronk, Lorenzo Calhoun, Isaac Contreras, Jalene Cruz, Alondra Ferreira, Connor Gray, Zachary Grow, Lexxie Hall, Jordynn Haynes, Logan Helsing, Carlos Hernandez, Samantha Hernandez, Desmond La Counte, Kyler Lerma, Jordan Leyva, Skye Matuzak, Righard Moler, Rebecca Mooney, Avery Orvis, Mark Palmer, Laura Pine, Madison Richards, Ashley Satz, Cole Shockey, Emily Simi, Jacquelin Estrada, Ed Kindrick, Scott Hauder, Carol Coltrin, Heather Bloom, Jamie Boyd, Crystal Anderson, Liza Nemedez, Tiffini Hall, Heather Matuzak, Jim Leslie, Roger Mooney, and Kim Moler.

On request of Assemblyman Hickey, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblymen David Humke.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to Jennifer Webb-Cook.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Theresa Malone.

On request of Assemblyman Kirner, the privilege of the floor of the Assembly Chamber for this day was extended to Don Riemenschnitter, Jackie Riemenschnitter, Trevor Riemenschnitter, Lynn Riemenschnitter, and former Assemblyman Joe Elliott.

On request of Assemblyman Livermore, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblywoman Maureen Bower, former Assemblyman Harold Jacobsen, and Alice Jacobsen.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Louis Toomin.

On request of Assemblywoman Neal, the privilege of the floor of the Assembly Chamber for this day was extended to former Senator Joseph Neal.

On request of Assemblyman Ocegüera, the privilege of the floor of the Assembly Chamber for this day was extended to Speaker Emeritus Joe Dini and former Chief Clerk Mouryne Dini.

On request of Assemblywoman Pierce, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Bob Benkovich.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblywoman Gene Segerblom and Robin Liggitt.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Bob Price and Nancy Price.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Ruben Murillo, Lorretta Harper, Jennifer Webb-Cook, and Teresa Boucher.

On request of Assemblywoman Woodbury, the privilege of the floor of the Assembly Chamber for this day was extended to Anna Hobbs.

Assemblyman Conklin moved that the Assembly adjourn until Wednesday, April 20, 2011, at 11 a.m.

Motion carried.

Assembly adjourned at 11:29 a.m.

Approved:

JOHN OCEGUERA
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly