THE SEVENTY-EIGHTH DAY

CARSON CITY (Monday) April 25, 2011

Assembly called to order at 11:30 a.m.
Mr. Speaker presiding.
Roll called.
All present.
Prayer by the Chaplain, Rajan Zed.

Om
bhur bhuvah svah
tat Savitur varenyam
bhargo devasya dhimahi
dhiyo you nah prachodayat

We meditate on the transcendental Glory of the Deity Supreme, who is inside the heart of the earth, inside the life of the sky and inside the soul of the Heaven. May He stimulate and illuminate our minds.

Asato ma sad gamaya
Tamaso ma jyotir gamaya
Mrityor mamrtam gamaya

Lead me from the unreal to the Real. Lead me from darkness to Light. Lead me from death to immortality.

Anapekshah shuchirdaksha
udaaseeno gatavyathah
Sarvaarambhaparityaagee
yo madbhaktah sa me priyah

Speaking of true devotees, Lord says: He is detached, pure, efficient, impartial, never anxious, selfless in all his undertakings; he is my devotee, very dear to me. O Lord, as devoted public officials, guide us to these values.

Trividham narakasyedam
dvaaram naashanamaatmanah
Kaamah krodhastathaa lobhah
Tasmaadetattrayam tyajet

There are three gates to this self-destructive hell: lust, anger, and greed. Please help us, O Lord, to renounce these three.

am saha naavavatu
Saha nau bhunaktu
Saha viiryan karavaavahai
Tejasvi naavadhiitamastu
Maa vidhvishhaavahai

May we be protected together.
May we be nourished together.
May we work together with great vigor.
May our study be enlightening.
May no obstacle arise between us.

Om Shanti, Shanti, Shanti.

Peace, Peace, Peace be unto all.

Om.

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Kirkpatrick 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. 141, 202, 273, 283, 308, 380, 416, 432, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Mr. Speaker:

Your Committee on Education, to which was referred Assembly Bill No. 117, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID P. BOBZIEN, *Chair*

Mr. Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 45, 59, 68, 179, 276, 402, 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 Government Affairs, to which was referred Assembly Bill No. 469, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

MARILYN K. KIRKPATRICK, *Chair*

Mr. Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 564, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Assembly Bills Nos. 13, 107, 135, 149, 161, 219, 258, 284, 463, 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 Taxation, to which were referred Assembly Bills Nos. 191, 245, 505, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Mr. Speaker:

Your Committee on Transportation, to which were referred Assembly Bills Nos. 247, 511, 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*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 22, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 30, Amendment No. 76; Assembly Bill No. 144, Amendment No. 51, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 106, 144, 154, 209, 248, 281, 284, 304, 309, 392, 406, 417, 488, 495.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 10, 15, 24, 26, 38, 40, 53, 57, 66, 81, 110, 112, 127, 130, 142, 152, 159, 182, 187, 194, 196, 198, 200, 218, 230, 238, 245, 251, 256, 257, 259, 260, 261, 268, 273, 277, 288, 294, 318, 361, 376, 393, 402, 403, 411.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Joint Resolution No. 8.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblyman Oceguera and Senator Horsford:

Assembly Joint Resolution No. 9—Urging Congress to enact the Unemployment Insurance Solvency Act of 2011.

Resolution read.

Assemblyman Conklin moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Joint Resolution No. 9 be declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Joint Resolution No. 9.

Resolution read third time.

Remarks by Assemblyman Conklin.

Roll call on Assembly Joint Resolution No. 9:

YEAS—41.

NAYS—McArthur.

Assembly Joint Resolution No. 9 having received a constitutional majority, Mr. Speaker declared it passed.

Resolution ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Joint Resolution No. 9 be immediately transmitted to the Senate.

Motion carried.

Senate Joint Resolution No. 8.

Assemblyman Conklin moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assemblyman Conklin moved that Assembly Bills Nos. 13, 45, 59, 68, 107, 117, 135, 141, 149, 161, 179, 191, 202, 219, 245, 247, 258, 273, 276, 283, 284, 308, 380, 402, 416, 432, 463, 469, 505, 511, and 564, just reported out of committee, be placed on the Second Reading File.

Motion carried.

NOTICE OF EXEMPTION

April 22, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 113, 212 and 375.

MARK KRMPOTIC
Fiscal Analysis Division

April 25, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 171.

RICK COMBS
Fiscal Analysis Division

April 25, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 231.

MARK KRMPOTIC
Fiscal Analysis Division

Assemblyman Conklin moved that Assembly Bills Nos. 128, 171, 330, and 552 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 29 be taken from the Chief Clerk's desk and placed at the top of the Second Reading File.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:51 a.m.

ASSEMBLY IN SESSION

At 11:53 a.m.

Speaker pro Tempore presiding.

Quorum present.

By the Assembly Committee on Legislative Operations and Elections and the Senate Committee on Legislative Operations and Elections:

Assembly Concurrent Resolution No. 8—Making a formal request for the Governor to establish an open, fair and public process to fill the vacancy in the Office of United States Senator.

WHEREAS, The upcoming vacancy in one of Nevada's seats in the United States Senate and the appointment of a temporary replacement is a matter of critical importance requiring careful deliberation and full transparency with the public; and

WHEREAS, The circumstances leading to the upcoming vacancy compel the need for public confidence in the process and knowledge that public, not political, interests are the sole factor in any decision regarding the selection of a replacement; and

WHEREAS, The effective date of resignation and vacancy lends time to establish a public process that ensures accountability while still providing the State of Nevada with the representation it needs in a timely manner; and

WHEREAS, When State Senator William J. Raggio resigned, the Board of County Commissioners of Washoe County, empowered to fill the vacancy, presented and conducted an open, fair and public process that ensured public confidence in the selection of his replacement; and

WHEREAS, Several factors in making any appointment need to be weighed in full, and fair public scrutiny, including whether the appointment of an honorable caretaker with no political motivations or electoral ambitions, may be in the best interests of all Nevadans; and

WHEREAS, Any appointment that creates a vacancy in another office which necessitates a subsequent special election will cost Nevadans hundreds of thousands of dollars of taxpayer money at a time when severe cuts to education and essential services are under consideration; and

WHEREAS, The United States Senate seat belongs to the people of Nevada, who are best served by a process in which they have as much knowledge and input as possible into the choice of the person who will represent them in the Senate; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Governor is hereby formally requested by the Legislature to develop and release an open, fair and public process for the purpose of making an appointment to fill the upcoming vacancy in the United States Senate; and be it further

RESOLVED, That the Governor should propose a timeline of not less than 1 week for any qualified Nevadans to apply and formally submit their names for consideration for appointment as a temporary replacement, and that any such appointment should be made only from those making such requests; and be it further

RESOLVED, That the information for those who have formally requested consideration for appointment be made available to the public for a period of not less than 1 week for public comment to be received before any appointment is made; and be it further

RESOLVED, That the official position of the State Legislature is that the people of Nevada deserve an open, fair and public process that is free from political calculations and partisan ambitions, and that the Governor should refrain from making any appointment until such a process is presented and conducted; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Governor Brian Sandoval as soon as practicable.

Assemblyman Oceguera moved the adoption of the resolution.

Remarks by Assemblyman Oceguera, Stewart, Hansen, Bobzien, Brooks, and Conklin.

Resolution adopted and ordered transmitted to the Senate.

Assemblyman Conklin moved to immediately transmit Assembly Concurrent Resolution No. 8 to the Senate.

Motion carried.

Madam Speaker pro Tempore announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:01 p.m.

ASSEMBLY IN SESSION

At 12:02 p.m.
Mr. Speaker presiding.
Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 10.
Assemblyman Conklin moved that the bill be referred to the Committee on Health and Human Services.
Motion carried.

Senate Bill No. 15.
Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Senate Bill No. 24.
Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Senate Bill No. 26.
Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Senate Bill No. 38.
Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.
Motion carried.

Senate Bill No. 40.
Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Senate Bill No. 53.
Assemblyman Conklin moved that the bill be referred to the Committee on Health and Human Services.
Motion carried.

Senate Bill No. 57.
Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Senate Bill No. 66.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 81.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 106.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 110.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 112.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 127.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 130.

Assemblyman Conklin moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 142.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 144.

Assemblyman Conklin moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 152.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 154.

Assemblyman Conklin moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 159.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 182.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 187.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 194.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 196.

Assemblyman Conklin moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 198.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 200.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 209.

Assemblyman Conklin moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 218.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 230.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 238.

Assemblyman Conklin moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 245.

Assemblyman Conklin moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 248.

Assemblyman Conklin moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 251.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 256.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 257.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 259.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 260.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 261.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 268.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 273.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 277.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 281.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 284.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 288.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 294.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 304.

Assemblyman Conklin moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senate Bill No. 309.

Assemblyman Conklin moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 318.

Assemblyman Conklin moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 361.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 376.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 392.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 393.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 402.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 403.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 406.

Assemblyman Conklin moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 411.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 417.

Assemblyman Conklin moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 488.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 495.

Assemblyman Conklin moved that the bill be referred to the Committee on Taxation.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 29.

Bill read second time

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

Amendment No. 502.

SUMMARY—Revises provisions governing county hospitals **[.]** **and requires certain hospitals to report information concerning the transfers of patients between hospitals to the Legislative Committee on Health Care.** (BDR 40-343)

AN ACT relating to **[**public hospitals; authorizing the boards of hospital trustees of certain public hospitals to fix**]** **health care; increasing** the compensation of members of hospital advisory boards; revising provisions governing the staff of physicians at public hospitals; **requiring certain hospitals to report information concerning the transfers of patients between hospitals to the Legislative Committee on Health Care;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes certain boards of hospital trustees of public hospitals to appoint advisory boards and limits the compensation for the service of members of advisory boards to not more than $100 per month. (NRS 450.175) Section 1 of this bill **[**repeals the $100 per month**]** **increases the** limit on compensation **[**and provides that members of a hospital advisory board may receive as compensation for their services**]** **to** an amount **[**fixed by the board of hospital trustees.**]** **not to exceed $1,000 per month.**

Existing law requires the board of hospital trustees of a public hospital to organize a staff of physicians composed of each regularly practicing physician, podiatric physician and dentist in the county who requests staff membership and prohibits the board from discriminating against a physician, podiatric physician or dentist. (NRS 450.440, 450.430) Section 3 of this bill provides that the staff of physicians, podiatric physicians and dentists may be required to be affiliated with the University of Nevada School of Medicine or the University of Nevada, Las Vegas, School of Dental Medicine. **If so required, the physician, podiatric physician or dentist who requests staff membership must meet the standards in the regulations of the board of hospital trustees and hold and maintain a faculty or clinical appointment with one of the two Universities. An exception applies, however, if the board of hospital trustees enters into a contract with a physician or group of physicians to be the exclusive provider of certain services. Section 2 of this bill further provides that if a physician loses privileges**

at a hospital because the physician no longer holds a faculty or clinical appointment with one of the Universities, that action shall not be deemed to be an adverse action against the physician.

Hospitals in this State are required to provide emergency services and care, and it is unlawful for a hospital or a physician working in a hospital emergency room to refuse to accept or treat a patient in need of emergency services and care. (NRS 439B.410) Section 4 of this bill requires certain hospitals located in larger counties to provide a report of certain information to the Legislative Committee on Health Care concerning the transfer of patients from the hospital to another hospital and the availability of specialty medical services in the hospital. Such a report must be made quarterly beginning on October 15, 2011, and cover the period from July 1, 2011, through September 30, 2012.

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

Section 1. NRS 450.175 is hereby amended to read as follows:

450.175 1. In counties where the board of county commissioners is the board of hospital trustees, the board of hospital trustees may appoint a hospital advisory board which shall exercise powers and duties delegated to the advisory board by the board of hospital trustees.

2. Members of a hospital advisory board must be appointed by a majority vote of the board of hospital trustees and shall serve at the pleasure of the board.

3. Members of the hospital advisory board may receive compensation for their services ~~[of no more than $100 per month.]~~ ***in an amount*** ~~*[fixed by the board of hospital trustees.]*~~ ***not to exceed $1,000 per month.***

Sec. 2. NRS 450.430 is hereby amended to read as follows:

450.430 1. ~~[In]~~ ***Except as otherwise provided in NRS 450.440, in*** the management of the public hospital, no discrimination may be made against physicians, podiatric physicians or dentists licensed under the laws of this state or licensed practitioners of the allied health professions, and all such physicians, dentists, podiatric physicians and practitioners have privileges in treating patients in the hospital in accordance with their training and ability, except that practitioners ~~*[:*~~

~~*(a) If the board of hospital trustees organizes the staff of physicians in accordance with subsection 2 of NRS 450.440, the board of hospital trustees may require a physician, podiatric physician or dentist to be affiliated with the University of Nevada School of Medicine or the University of Nevada, Las Vegas, School of Dental Medicine.*~~

~~*(b) Practitioners]*~~ of the allied health professions may not be members of the staff of physicians described in NRS 450.440. Practitioners of the allied health professions are subject to the bylaws and regulations established by the board of hospital trustees.

2. The patient has the right to employ, at the patient's own expense, his or her own physician, if that physician is a member of the hospital staff, or the patient's own nurse, and when acting for any patient in the hospital, the physician employed by the patient has charge of the care and treatment of the patient, and the nurses in the hospital shall comply with the directions of the physician concerning that patient, subject to the regulations established by the board of hospital trustees.

3. If a physician loses privileges at a hospital because the physician no longer holds a faculty or clinical appointment with the University of Nevada School of Medicine or the University of Nevada, Las Vegas, School of Dental Medicine, as required pursuant to NRS 450.440, that action shall not be deemed to be an adverse action by the hospital against the physician.

Sec. 3. NRS 450.440 is hereby amended to read as follows:

450.440 1. ~~[The]~~ ***Except as otherwise provided in subsection 2, the*** board of hospital trustees shall organize a staff of physicians composed of each regular practicing physician, podiatric physician and dentist in the county in which the hospital is located who requests staff membership and meets the standards set forth in the regulations prescribed by the board of hospital trustees.

2. ***The board of hospital trustees may , after consulting with the chief of staff of the hospital and the deans of the University of Nevada School of Medicine and the University of Nevada, Las Vegas, School of Dental Medicine, organize a staff of physicians composed solely of physicians, podiatric physicians and dentists who are affiliated with the University of Nevada School of Medicine or the University of Nevada, Las Vegas, School of Dental Medicine who request staff membership and meet the*** ~~*[standards set forth in the regulations prescribed by the board of hospital trustees. If]*~~ ***requirements set forth in subsection 3.***

3. Except as otherwise provided in subsection 4, if the board of hospital trustees ~~*[organizes]*~~ ***decides to organize the staff of physicians in accordance with*** ~~*[this subsection,]*~~ ***subsection 2, a physician, podiatric physician or dentist who requests staff membership must:***

(a) Meet the standards set forth in the regulations prescribed by the board of hospital trustees; and

(b) ~~*[Obtain a letter from]*~~ ***Hold a faculty or clinical appointment with the University of Nevada School of Medicine or the University of Nevada, Las Vegas, School of Dental Medicine*** ~~*[indicating that he or she is affiliated with that school;]*~~ ***and***

~~*[(c) Maintain an affiliation with the University of Nevada School of Medicine or the University of Nevada, Las Vegas, School of Dental Medicine]*~~ ***maintain that appointment while he or she is on the staff of physicians.***

~~*[3.]*~~ ***4. If the board of hospital trustees decides to organize the staff of physicians in accordance with subsection 2, the board of hospital trustees may enter into a contract with a physician or group of physicians who do***

not meet the requirements of subsection 3 if the physician or group of physicians will be the exclusive provider of certain services for the hospital. Such services may include, without limitation, radiology, pathology, emergency medicine and neonatology services.

5. The provisions of subsections 2 and 3 shall not be deemed to prohibit a physician, podiatric physician or dentist who is on the staff of physicians from being affiliated with another institution of higher education.

6. The staff shall organize in a manner prescribed by the board so that there is a rotation of service among the members of the staff to give proper medical and surgical attention and service to the indigent sick, injured or maimed who may be admitted to the hospital for treatment.

~~[3.]~~ *~~[4.]~~* ***7.*** The board of hospital trustees or the board of county commissioners may offer the following assistance to members of the staff to attract and retain them:

(a) Establishment of clinic or group practice;

(b) Malpractice insurance coverage under the hospital's policy of professional liability insurance;

(c) Professional fee billing; and

(d) The opportunity to rent office space in facilities owned or operated by the hospital, as the space is available, if this opportunity is offered to all members of the staff on the same terms and conditions.

Sec. 4. **1. Each hospital located in a county whose population is 700,000 or more which is licensed to have more than 70 beds shall provide to the Legislative Committee on Health Care a report concerning the transfer of patients from one hospital to another hospital. Such information must include:**

(a) The number of patients who are transferred from the hospital to another hospital;

(b) The number of patients who were received by the hospital and who were transferred from another hospital;

(c) The reason for each transfer of a patient to another hospital;

(d) The availability of specialty services and care in the hospital; and

(e) Whether each patient who was transferred from the hospital had insurance or some other guaranteed form of payment for services.

2. Each hospital subject to the provisions of subsection 1 shall provide a report to the Legislative Committee on Health Care with the information required at least once every 3 months, and the reports must include information from July 1, 2011, through September 30, 2012. The first report must be made by October 15, 2011, and must include information from July 1, 2011, through September 30, 2011. Subsequent reports must include information for the period since the last report.

3. The information reported pursuant to this section must be made available to each person or entity that provides information pursuant to this section to the extent that it is not required by law to be kept confidential.

4. The information reported pursuant to this section must be maintained and reported in a manner consistent with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

5. As used in this section, "specialty services" includes, without limitation:

(a) Cardiology services;

(b) Gastroenterological services;

(c) General surgical services;

(d) Neurosurgical services;

(e) Ophthalmology services;

(f) Oral and maxillofacial surgical services;

(g) Orthopedic services;

(h) Otolaryngology services; and

(i) Urological services.

~~[Sec. 4.]~~ *Sec. 5.* This act becomes effective on July 1, 2011.

Assemblywoman Mastroluca moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 13.

Bill read second time

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 513.

SUMMARY—Revises provisions relating to certain offenses committed by juveniles**.** ~~[involving hunting activities or target practice.]~~ (BDR 5-470)

AN ACT relating to juveniles; making it discretionary rather than mandatory for a peace officer or probation officer to take a child into custody for an unlawful act involving the possession, use or threatened use of a firearm **;** ~~[while engaged in hunting activities or target practice;]~~ providing for the disposition of cases involving the killing or possession of certain animals; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, **a peace officer or probation officer may take into custody any child who the officer has probable cause to believe is violating or has violated any state or local law, ordinance, or rule or regulation having the force of law, but** if ~~[a]~~ **the** peace officer or probation officer has probable cause to believe that a child is committing or has committed an unlawful act that involves the possession, use or threatened use of a firearm, the officer is required to take the child into custody. (NRS **62C.010,** 62C.060) **Section 1** of this bill makes it discretionary rather than mandatory for a peace officer or probation officer to take a child into custody for an unlawful act involving the possession, use or threatened use of a firearm **.** ~~[while engaged in hunting activities or target practice.]~~

Existing law prohibits a person from killing or aiding and abetting another person to kill bighorn sheep, mountain goats, elk, deer, pronghorn antelopes, mountain lions or black bears except under certain circumstances. Existing law further prohibits a person from possessing such animals if the person knows or should have known that the animal was killed in violation of existing law. (NRS 501.376) **Section 2** of this bill provides for the disposition of cases in which a child has been adjudicated delinquent for an unlawful act involving the killing or possession of such animals in violation of NRS 501.376.

Section 4 of this bill makes these new provisions effective on March 1, 2012, which is the start of a new year for licenses for hunting, fishing and trapping.

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

Section 1. NRS 62C.060 is hereby amended to read as follows:

62C.060 1. ~~[If a peace officer or probation officer has probable cause to believe that a child is committing or has committed an unlawful act that involves]~~ ~~[the]~~ ~~*[:*~~

~~*(a) The* possession, use or threatened use of a firearm, *other than an unlawful act described in paragraph (b),* the officer shall take the child into custody.~~

~~*(b) The possession, use or threatened use of a firearm while engaged in hunting activities or any activities involving the development or practice of shooting skills, including, without limitation, target practice, the officer may take the child into custody.*~~

~~2.]~~ If a child is taken into custody for an unlawful act ~~[described in this section,]~~ ***that involves the possession, use or threatened use of a firearm,*** the child must not be released before a detention hearing is held pursuant to NRS 62C.040.

~~[3.]~~ ***2.*** At the detention hearing, the juvenile court shall, if the child was taken into custody for:

(a) Carrying or possessing a firearm while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility, order the child to:

(1) Be evaluated by a qualified professional; and

(2) Submit to a test to determine whether the child is using any controlled substance.

(b) Committing an unlawful act involving a firearm other than the act described in paragraph (a), determine whether to order the child to be evaluated by a qualified professional.

~~[4.]~~ ***3.*** If the juvenile court orders the child to be evaluated by a qualified professional or to submit to a test to determine whether the child is using any controlled substance, the evaluation or the results from the test must be

completed not later than 14 days after the detention hearing. Until the evaluation or the test is completed, the child must be:

(a) Detained at a facility for the detention of children; or

(b) Placed under a program of supervision in the home of the child that may include electronic surveillance of the child.

~~[5.]~~ ***4.*** If a child is evaluated by a qualified professional pursuant to this section, the statements made by the child to the qualified professional during the evaluation and any evidence directly or indirectly derived from those statements may not be used for any purpose in a proceeding which is conducted to prove that the child committed a delinquent act or criminal offense. The provisions of this subsection do not prohibit the district attorney from proving that the child committed a delinquent act or criminal offense based upon evidence obtained from sources or by means that are independent of the statements made by the child to the qualified professional during the evaluation.

~~[6.]~~ ***5.*** As used in this section, "child ~~[:~~

~~*(a) "Child]*~~ care facility" has the meaning ascribed to it in paragraph (a) of subsection 5 of NRS 202.265.

~~*[(b) "Hunting activities" includes:*~~

~~*(1) Searching for, pursuing or attracting any wildlife for the purpose and with the means of capturing, injuring or killing that wildlife; and*~~

~~*(2) Every attempt to capture, injure or kill wildlife, and every act of assistance to any other person in capturing, injuring or killing that wildlife.]*~~

Sec. 2. Chapter 62E of NRS is hereby amended by adding thereto a new section to read as follows:

If a child is adjudicated delinquent for an unlawful act involving the killing or possession of certain animals in violation of NRS 501.376, the juvenile court may do any or all of the following:

1. Order the child to pay a fine. If the juvenile court orders the child to pay a fine, the juvenile court shall order the child to pay an administrative assessment pursuant to NRS 62E.270. If, because of financial hardship, the child is unable to pay the fine, the juvenile court may order the child to perform community service.

2. Order the child or the parent or guardian of the child, or both, to pay a civil penalty pursuant to NRS 501.3855.

3. Order that any license issued to the child pursuant to chapter 502 of NRS be revoked by the Department of Wildlife. The juvenile court shall order the child to surrender to the court any license issued to the child pursuant to chapter 502 of NRS then held by the child and, not later than 5 days after issuing the order, forward to the Department of Wildlife any license surrendered by the child and a copy of the order.

4. Order that the child must not receive a license to hunt, fish or trap within the 2 years immediately following the date of the order or until the child is 18 years of age, whichever is later.

5. Order the child placed on probation and impose such conditions as the juvenile court deems proper.

Sec. 3. NRS 502.118 is hereby amended to read as follows:

502.118 Upon receipt of a copy of an order of the juvenile court, entered pursuant to NRS 62E.660 ~~[,]~~ ***or section 2 of this act*** to revoke the license ***of a child*** to hunt ~~[of a child,]~~ ***, fish or trap,*** the Department shall revoke the license. The revocation of the license ~~[to hunt]~~ shall be deemed effective as of the date of the order. The Department shall retain the copy of the order.

Sec. 4. This act becomes effective on March 1, 2012.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 45.

Bill read second time

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

Amendment No. 498.

AN ACT relating to district attorneys; revising requirements relating to attendance at meetings and at the county seat of certain district attorneys; requiring district attorneys to perform certain legal duties for the boards of county commissioners; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 2 and 3 of this bill require]~~ **Existing law requires** the district attorney in each county where, at the preceding general election, the total votes cast for the office of Representative in the Congress of the United States ~~[did not exceed]~~ **exceeded** 2,500 (currently **all counties other than** Esmeralda **,** ~~[and]~~ Eureka **, Lander, Lincoln, Mineral, Pershing and Storey** Counties) to **_** ~~[: (1) attend in person all regular and special meetings of the board of county commissioners; and (2) spend not less than 52 days,]~~ **keep an office open on all days** excluding Saturdays, Sundays and nonjudicial days **_** ~~[, each year]~~ at the county seat during business hours. A district attorney who does not satisfy these requirements without prior approval from the board of county commissioners is guilty of a misdemeanor. **Section 3 of this bill requires all district attorneys to keep an office open on all days excluding Saturdays, Sundays and nonjudicial days at the county seat during business hours but allows the board of county commissioners of a county whose population is 9,000 or less (currently Esmeralda, Eureka, Lander, Lincoln, Mineral, Pershing and Storey Counties) to issue an order that reduces the days and hours during which the office must be kept open.**

Existing law requires that a district attorney give his or her advice, when required, to members of the board of county commissioners upon matters relating to their duties. **Section 4** of this bill requires each district attorney

also to perform legal duties for the board of county commissioners, such as reviewing contracts, drafting ordinances, providing legal advice relating to federal, state and local law, and drawing legal papers on behalf of the board.

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

Section 1. NRS 244.235 is hereby amended to read as follows:

244.235 1. As provided in NRS 252.170, the district attorney shall attend the ~~[sittings]~~ ***meetings*** of the board of county commissioners ~~[when engaged in]~~ ***relating to the*** auditing ***of*** accounts and claims brought against the county, and shall oppose such accounts and claims as the district attorney ~~[may deem illegal, unjust or extortionate.]~~ ***deems appropriate.***

2. As provided in NRS 252.180, the district attorney shall not be allowed to present any claim, account or demand for allowance against the county, or in any way to advocate the relief asked on the claim or demand made by another.

Sec. 2. ~~[NRS 252.050 is hereby amended to read as follows:~~

~~252.050 1. In counties where, at the preceding general election, the total votes cast for the office of Representative in the Congress of the United States exceeded 2,500, except as otherwise provided in subsection [5,] 6, district attorneys shall keep an office at the county seat of their county, which must be kept open at least from 9 a.m. to 12 m. and 1 p.m. to 5 p.m. on all days except Saturdays, Sundays and nonjudicial days. Notwithstanding the provisions of this section, the board of county commissioners of any county may, by an order regularly made and entered in the record of its proceedings, extend the days and hours during which the office of the district attorney must be kept open for the transaction of public business. The board of county commissioners may authorize the district attorney to rent, equip and operate, at public expense, one or more branch offices in the county.~~

~~2. In counties in which the county seat is not the principal center of population, the county commissioners may authorize the district attorney to rent, equip and operate, at public expense, a branch office at the county's principal center of population. Except as otherwise provided in subsection [5,] 6, the branch office must be kept open for the transaction of public business on the days and during the hours specified in subsection 1, but the requirements thereof do not apply to a district attorney when called away from the branch office by official duties.~~

~~3. Except as otherwise provided in subsection [5,] 6, any district attorney violating the provisions of subsection 1 or 2 is guilty of a misdemeanor.~~

~~4. If any district attorney is absent from his or her office [,] during the times he or she is required to be present pursuant to subsection 1 or 5, except:~~

~~(a) When called away from his or her office by official duties;~~

~~(b) When expressly permitted so to do by the board of county commissioners or a majority of the members thereof in writing; or~~

~~(c) When the district attorney first makes provision to leave his or her office open for the transaction of public business on the days and during the hours prescribed in subsection 1 *or 5* and in charge of a deputy qualified to act in his or her absence,~~

~~→ there must be withheld from his or her monthly salary that proportion thereof as the number of days of the absence bears to the number of days of the month in which the absence occurs. This amount must be withheld from the salary of the district attorney for the next succeeding month by order of the board of county commissioners, but no order in the premises may be made without first giving the district attorney reasonable notice and an opportunity to appear before the board and defend the charge against him or her.~~

~~[~~4.~~]~~ ***~~5.~~*** ~~Notwithstanding any other provision of subsection 1, 2 or [~~3,~~]~~ ***~~4, and~~*** ~~except as otherwise provided in subsection [~~5,~~]~~ ***~~6,~~*** ~~the district attorney in each county [~~having a population of 700 or less,~~]~~ ***~~where, at the preceding general election, the total votes cast for the office of Representative in the Congress of the United States did not exceed 2,500,~~*** ~~regardless of where the district attorney resides or where he or she keeps his or her office, shall:~~

~~(a) [~~Attend~~]~~ ***~~Except as otherwise provided in this subsection and NRS 252.170, attend in person~~*** ~~all meetings, regular or special, of the board of county commissioners [~~.~~]~~ ***~~; and~~***

~~(b) Spend the hours from 9 a.m. to *12 m. and 1 p.m. to* 5 p.m. of not less than [~~1 day~~]~~ ***~~52 days, excluding Saturdays, Sundays and nonjudicial days,~~*** ~~each [~~week~~]~~ ***~~year~~*** ~~at the county seat, and shall make himself or herself available to the county officers *and commissioners on those days and* during those hours. The district attorney shall select the [~~day of the week~~]~~ ***~~days~~*** ~~for his or her attendance at the county seat *that are required pursuant to this paragraph* and [~~shall thereafter spend that day each week at the county seat.~~

~~5.~~]~~ ***~~notify the county officers and commissioners, in writing, of such days at least 15 days before his or her attendance at the county seat.~~***

~~→ *A district attorney who violates a provision of this subsection is guilty of a misdemeanor unless the district attorney obtains prior approval from the board of county commissioners.*~~

~~***6.*** Any office of a district attorney may deviate from the hours of operation required pursuant to [~~this section~~]~~ ***~~subsection 1 or 2~~*** ~~if the board of county commissioners approves the plan for the deviation submitted by the office. Such a plan must be fiscally neutral or result in cost savings.~~]~~ **(Deleted by amendment.)**

Sec. 3. NRS 252.050 is hereby amended to read as follows:

252.050 1. ~~[~~In counties where, at the preceding general election, the total votes cast for the office of Representative in the Congress of the United States exceeded 2,500,~~]~~ ***Except as otherwise provided in subsection 3, each*** district ~~[~~attorneys~~]~~ ***attorney*** shall keep an office at the county seat of their county, which must be kept open at least from 9 a.m. to 12 m. and 1 p.m. to 5 p.m. on all days except Saturdays, Sundays and nonjudicial days.

Notwithstanding the provisions of this section, the board of county commissioners of any county may, by an order regularly made and entered in the record of its proceedings, extend the days and hours during which the office of the district attorney must be kept open for the transaction of public business. The board of county commissioners may authorize the district attorney to rent, equip and operate, at public expense, one or more branch offices in the county.

2. In counties in which the county seat is not the principal center of population, the county commissioners may authorize the district attorney to rent, equip and operate, at public expense, a branch office at the county's principal center of population. The branch office must be kept open for the transaction of public business on the days and during the hours specified in subsection 1, but the requirements thereof do not apply to a district attorney when called away from the branch office by official duties.

3. ~~[Any]~~ ***In a county whose population is less than 9,000, the board of county commissioners of the county may, by an order regularly made and entered in the record of its proceedings, reduce the days and hours during which the office of the district attorney must be kept open for the transaction of public business.***

4. Except as otherwise provided in subsection 3, any district attorney violating the provisions of subsection 1 or 2 is guilty of a misdemeanor.

~~*[4.]*~~ If any district attorney is absent from his or her office , ~~*[during the times he or she is required to be present pursuant to subsection 1 or 5,]*~~ except:

(a) When called away from his or her office by official duties;

(b) When expressly permitted so to do by the board of county commissioners or a majority of the members thereof in writing; or

(c) When the district attorney first makes provision to leave his or her office open for the transaction of public business on the days and during the hours prescribed in subsection 1 ~~*[or 5]*~~ and in charge of a deputy qualified to act in his or her absence,

➥ there must be withheld from his or her monthly salary that proportion thereof as the number of days of the absence bears to the number of days of the month in which the absence occurs. This amount must be withheld from the salary of the district attorney for the next succeeding month by order of the board of county commissioners; but no order in the premises may be made without first giving the district attorney reasonable notice and an opportunity to appear before the board and defend the charge against him or her.

~~[~~4.~~]~~ ~~*[5. Notwithstanding any other provision of this section, the district attorney in each county]*~~ ~~[~~having a population of 700 or less,~~]~~ ~~*[where, at the preceding general election, the total votes cast for the office of Representative in the Congress of the United States did not exceed 2,500,*~~ ~~regardless of where the district attorney resides or where he or she keeps his or her office, shall:~~

~~(a)~~ **[**Attend**]** ~~*[Except as otherwise provided in this subsection and NRS 252.170, attend in person* all meetings, regular or special, of the board of county commissioners~~**]** **[**.**]** ~~*[; and*~~

~~(b) Spend the hours from 9 a.m. *to 12 m. and 1 p.m.* to 5 p.m. of not less than~~**]** **[**1 day**]** ~~*[52 days, excluding Saturdays, Sundays and nonjudicial days,* each~~**]** **[**week**]** ~~*[year* at the county seat, and shall make himself or herself available to the county officers *and commissioners on those days and* during those hours. The district attorney shall select the~~**]** **[**day of the week**]** ~~*[days* for his or her attendance at the county seat *that are required pursuant to this paragraph* and~~**]** **[**shall thereafter spend that day each week at the county seat.**]** ~~*[notify the county officers and commissioners, in writing, of such days at least 15 days before his or her attendance at the county seat.*~~

~~*2. A district attorney who violates a provision of this subsection is guilty of a misdemeanor unless the district attorney obtains prior approval from the board of county commissioners.]*~~

Sec. 4. NRS 252.170 is hereby amended to read as follows:

252.170 ***1.*** The district attorney **[**,**]** ***shall,*** when not in attendance **[**on**]** ***at*** the sittings of the district court as criminal prosecutor, **[**shall**]** attend the **[**sittings**]** ***meetings*** of the board of county commissioners**.** **[**, when engaged in**]** ***When attending meetings of the board of county commissioners relating to the*** auditing ***of*** accounts and claims brought against the county, **[**and in all cases**]** ***the district attorney shall*** oppose such accounts or claims as the district attorney **[**may deem illegal or unjust, and shall, at**]** ***deems appropriate.***

2. ~~*[The district attorney shall perform legal duties for the board of county commissioners, including,]*~~ ***Additional duties of the district attorney include, without limitation:***

(a) Reviewing all contracts under consideration by the board of county commissioners;

(b) Drafting ordinances and amendments thereto;

(c) Providing advice relating to the interpretation or application of county ordinances;

(d) Providing advice relating to the impact of federal or state law on the county;

(e) Drawing all legal papers on behalf of the board of county commissioners; and

(f) At all times, **[**give**]** ***giving*** his or her advice ***, including written legal opinions,*** when required **,** to the members of the board of county commissioners upon matters relating to their duties.

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

~~2. Section 2 of this act expires by limitation on June 30, 2011.~~

~~3. Section 3 of this act becomes effective on July 1, 2011.~~**]** **(Deleted by amendment.)**

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 59.

Bill read second time.

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

Amendment No. 137.

AN ACT relating to the Open Meeting Law; requiring a public body to take certain actions if the Attorney General finds that the public body has violated the Open Meeting Law; authorizing the Attorney General to issue subpoenas during investigations of such violations; revising the definition of "public body" for the purposes of the Open Meeting Law; requiring a public body to include certain notifications on an agenda for a public meeting; **excluding a meeting held to consider an applicant for employment from certain notice requirements;** making members of a public body subject to a civil penalty for violations; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Open Meeting Law which requires, except in certain limited situations, that all meetings of public bodies be open and public. It further requires that all persons be allowed to attend any meeting of these public bodies. (NRS 241.020) Existing law makes any action of a public body in violation of the Open Meeting Law void, and requires the Attorney General to investigate and prosecute any violation of the Open Meeting Law. (NRS 241.036, 241.040) If the Attorney General finds that a public body has taken an action which violates the Open Meeting Law, **section 2** of this bill requires the public body to include an item on the next agenda posted for a meeting of the public body acknowledging the finding of the Attorney General regarding such a violation. **Section 2** also provides that such acknowledgment is not an admission of wrongdoing on the part of the public body for the purposes of a civil action, criminal prosecution or injunctive relief. **Section 3** of this bill authorizes the Attorney General to issue subpoenas for the production of documents, records or materials in the course of his or her investigation of any violation of the Open Meeting Law and makes failure or refusal to comply with such a subpoena a misdemeanor.

Section 4 of this bill revises the definition of "public body" for purposes of the Open Meeting Law to identify the manner in which an entity must be created to be considered a public body and to clarify that a public body consists of at least two members. **Section 4** also excludes proceedings of a public body that are judicial or quasi-judicial in nature from the requirements of the Open Meeting Law **~~[.]~~ , unless the public body in question is also a regulatory body.**

Section 5 of this bill adds certain notifications that must be included on an agenda for a meeting of a public body.

Under existing law, if a public body holds a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, it must first provide written notice of that fact and, if such a meeting will be closed, must allow the attendance of certain individuals. Existing law also provides that casual or tangential references to a person or the person's name during a closed meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person. (NRS 241.033) Section 6 of this bill provides that a meeting to consider an applicant for employment does not require prior notice to be given to the applicant.

Existing law makes each member of a public body who attends a meeting where action is taken in violation of the Open Meeting Law with knowledge of the fact that the meeting is in violation guilty of a misdemeanor. (NRS 241.040) **Section ~~[6]~~ 7** of this bill further makes each such member who attends such a meeting subject to a civil penalty in an amount not to exceed $500**.** ~~**[**regardless of knowledge of the violation.**]**~~

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

Section 1. Chapter 241 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. If the Attorney General makes findings of fact and conclusions of law that a public body has taken action in violation of any provision of this chapter, the public body must include an item on the next agenda posted for a meeting of the public body which acknowledges the findings of fact and conclusions of law. The opinion of the Attorney General must be treated as supporting material for the item on the agenda for the purposes of NRS 241.020.***

2. The inclusion of an item on the agenda for a meeting of a public body pursuant to subsection 1 is not an admission of wrongdoing for the purposes of a civil action, criminal prosecution or injunctive relief.

Sec. 3. ***1. The Attorney General shall investigate and prosecute any violation of this chapter.***

2. In any investigation conducted pursuant to subsection 1, the Attorney General may issue subpoenas for the production of any relevant documents, records or materials.

3. A person who willfully fails or refuses to comply with a subpoena issued pursuant to this section is guilty of a misdemeanor.

Sec. 4. NRS 241.015 is hereby amended to read as follows:

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

1. "Action" means:

(a) A decision made by a majority of the members present during a meeting of a public body;

(b) A commitment or promise made by a majority of the members present during a meeting of a public body;

(c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present during a meeting of the public body; or

(d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

2. "Meeting":

(a) Except as otherwise provided in paragraph (b), means:

(1) The gathering of members of a public body at which a quorum is present to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) Any series of gatherings of members of a public body at which:

(I) Less than a quorum is present at any individual gathering;

(II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and

(III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.

(b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present:

(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both.

3. Except as otherwise provided in this subsection, "public body" means:

(a) Any administrative, advisory, executive or legislative body of the State or a local government ***consisting of at least two persons*** which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405 ~~[; and]~~ ***, if the administrative , advisory, executive or legislative body is created by:***

(1) The Constitution of this State;

(2) Any statute of this State;

(3) A city charter and any city ordinance which has been filed or recorded as required by the applicable law;

(4) The Nevada Administrative Code;

(5) A resolution or other formal designation by such a body created by a statute of this State or an ordinance of a local government;

(6) An executive order issued by the Governor; or

(7) A resolution or order by the governing body ~~[or the executive officer]~~ of a political subdivision of this State;

(b) ***Any board, commission or committee consisting of at least two persons appointed by:***

(1) The Governor ~~[, the executive officer of a political subdivision of this State]~~ or a public officer who is under the direction of the Governor , ~~[or the executive officer of a political subdivision of this State,]~~ if the board, commission or committee has at least two members who are not ~~[on the staff of the Governor, the executive officer or the public officer who made the appointment;]~~ employees of the Executive Department of the State Government;

(2) An entity in the Executive Department of the State Government consisting of members appointed by the Governor, if the board, commission or committee otherwise meets the definition of a public body pursuant to this subsection; or

(3) A public officer who is under the direction of an agency or other entity in the Executive Department of the State Government consisting of members appointed by the Governor, if the board, commission or committee has at least two members who are not employed by the public officer or entity; and

(c) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of NRS 116.1201.

➥ "Public body" does not include the Legislature of the State of Nevada ~~[.]~~ ***or an entity , other than a regulatory body as defined in NRS 622.060, which would otherwise be considered a public body when such entity is engaged in proceedings that are judicial or quasi-judicial in nature.***

4. "Quorum" means a simple majority of the constituent membership of a public body or another proportion established by law.

Sec. 5. NRS 241.020 is hereby amended to read as follows:

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and employees responsible

for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

(a) The time, place and location of the meeting.

(b) A list of the locations where the notice has been posted.

(c) An agenda consisting of:

(1) A clear and complete statement of the topics scheduled to be considered during the meeting.

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items ~~[.]~~ ***by placing the term "for possible action" next to the appropriate item.***

(3) A period devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

(4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.

(5) If, during any portion of the meeting, the public body will consider whether to take administrative action against a person, the name of the person against whom administrative action may be taken.

(6) Notification that:

(I) Items on the agenda may be taken out of order;

(II) The public body may combine two or more agenda items for consideration; and

(III) The public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

(7) Any restrictions on comments by the general public. Any such restrictions must be reasonable and may restrict the time, place and manner of the comments, but may not restrict comments based upon viewpoint.

3. Minimum public notice is:

(a) Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting; and

(b) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:

(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

4. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

5. Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) An agenda for a public meeting;

(b) A proposed ordinance or regulation which will be discussed at the public meeting; and

(c) Subject to the provisions of subsection 6, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

(1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;

(2) Pertaining to the closed portion of such a meeting of the public body; or

(3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.

➥ The public body shall make at least one copy of the documents described in paragraphs (a), (b) and (c) available to the public at the meeting to which the documents pertain. As used in this subsection, "proprietary information" has the meaning ascribed to it in NRS 332.025.

6. A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 5 must be:

(a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or

(b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body.

➥ If the requester has agreed to receive the information and material set forth in subsection 5 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

7. A public body may provide the public notice, information and material required by this section by electronic mail. If a public body makes such notice, information and material available by electronic mail, the public body shall inquire of a person who requests the notice, information or material if the person will accept receipt by electronic mail. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or material required by this section to a person who has agreed to receive such notice, information or material by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

8. As used in this section, "emergency" means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

(a) Disasters caused by fire, flood, earthquake or other natural causes; or

(b) Any impairment of the health and safety of the public.

Sec. 6. **NRS 241.033 is hereby amended to read as follows:**

241.033 1. ~~[A]~~ ***Except as otherwise provided in subsection 7, a*** public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has:

(a) Given written notice to that person of the time and place of the meeting; and

(b) Received proof of service of the notice.

2. The written notice required pursuant to subsection 1:

(a) Except as otherwise provided in subsection 3, must be:

(1) Delivered personally to that person at least 5 working days before the meeting; or

(2) Sent by certified mail to the last known address of that person at least 21 working days before the meeting.

(b) May, with respect to a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, include an informational statement setting forth that the public body may, without further notice, take administrative action against the person if the public body determines that such administrative action is warranted after considering the character, alleged misconduct, professional competence, or physical or mental health of the person.

(c) Must include:

(1) A list of the general topics concerning the person that will be considered by the public body during the closed meeting; and

(2) A statement of the provisions of subsection 4, if applicable.

3. The Nevada Athletic Commission is exempt from the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 2, but must give written notice of the time and place of the meeting and must receive proof of service of the notice before the meeting may be held.

4. If a public body holds a closed meeting or closes a portion of a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, the public body must allow that person to:

(a) Attend the closed meeting or that portion of the closed meeting during which the character, alleged misconduct, professional competence, or physical or mental health of the person is considered;

(b) Have an attorney or other representative of the person's choosing present with the person during the closed meeting; and

(c) Present written evidence, provide testimony and present witnesses relating to the character, alleged misconduct, professional competence, or physical or mental health of the person to the public body during the closed meeting.

5. Except as otherwise provided in subsection 4, with regard to the attendance of persons other than members of the public body and the person whose character, alleged misconduct, professional competence, physical or mental health or appeal of the results of an examination is considered, the chair of the public body may at any time before or during a closed meeting:

(a) Determine which additional persons, if any, are allowed to attend the closed meeting or portion thereof; or

(b) Allow the members of the public body to determine, by majority vote, which additional persons, if any, are allowed to attend the closed meeting or portion thereof.

6. A public body shall provide a copy of any record of a closed meeting prepared pursuant to NRS 241.035, upon the request of any person who received written notice of the closed meeting pursuant to subsection 1.

7. For the purposes of this section ~~[, casual]~~ **:**

(a) A meeting held to consider an applicant for employment is not subject to the notice requirements otherwise imposed by this section.

(b) Casual or tangential references to a person or the name of a person during a closed meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person.

~~[Sec. 6.]~~ ***Sec. 7.*** NRS 241.040 is hereby amended to read as follows:

241.040 1. Each member of a public body who attends a meeting of that public body where action is taken in violation of any provision of this chapter, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

2. Wrongful exclusion of any person or persons from a meeting is a misdemeanor.

3. A member of a public body who attends a meeting of that public body at which action is taken in violation of this chapter is not the accomplice of any other member so attending.

4. ***In addition to any criminal penalty imposed pursuant to this section, each member of a public body who attends a meeting of that public body***

where action is taken in violation of any provision of this chapter, ~~[regardless of]~~ and who participates in such action with knowledge of the violation, is subject to a civil penalty in an amount not to exceed $500. The Attorney General ~~[shall investigate and prosecute any violation of this chapter.]~~ ***may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction. Such an action must be commenced within 1 year after the date of the action taken in violation of this chapter.***

~~[Sec. 7.]~~ ***Sec. 8.*** This act becomes effective on July 1, 2011.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 68.

Bill read second time.

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

Amendment No. 377.

SUMMARY—Revises provisions governing the sale or lease of real property by **counties and** cities. (BDR 21-401)

AN ACT relating to ~~[cities;]~~ **local governments;** exempting certain leases of real property from requirements relating to appraisal and auction; ~~[reducing the number of independent appraisals of fair market value required in certain circumstances for the sale or lease of real property by cities;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth requirements for the sale or lease of real property by **counties and by** incorporated cities. In accordance with these requirements, the **board of county commissioners of a county or the** governing body of a city is required, with limited exceptions, to obtain two independent appraisals of the fair market value of the real property and to sell or lease the property at publication. (NRS **244.2795, 244.281, 244.283,** 268.059, 268.061, 268.062) ~~[Section]~~ **Sections 1 and 6** of this bill ~~[authorizes]~~ **authorize** a **county or** city to lease real property without satisfying such requirements if the real property is less than 25,000 square feet and the **board of county commissioners or** governing body **of a city** adopts a resolution stating that the lease is in the best interest of the **county or** city. ~~[Section 2 of this bill, in situations in which an appraisal is required, reduces from two to one the number of independent appraisals of the fair market value of real property that a city is required to obtain before offering real property for sale or lease.]~~

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

Section 1. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of a city may offer any city-owned building or any portion thereof or any other real property for lease without complying with the provisions of NRS 268.059, 268.061 and 268.062 if:

(a) The area of the building space or other real property is less than 25,000 square feet; and

(b) The governing body adopts a resolution stating that it is in the best interest of the city to lease the property:

(1) Without offering the property to the public; and

(2) For less than the fair market value of the building space or other real property, if applicable.

2. The governing body shall:

(a) Cause to be published at least once, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the city-owned building or portion thereof or the other real property is located, a notice setting forth a description of the city-owned building or portion thereof or the other real property proposed to be leased in such a manner as to identify it; and

(b) Hold a public hearing on the matter not less than 10 or more than 20 days after the date of publication of the notice.

3. A lease of a city-owned building or any portion thereof or any other real property pursuant to this section may be made on such terms and conditions as the governing body of the city deems proper. The duration of such a lease must not exceed 3 years and may include an extension for not more than an additional 2 years.

Sec. 2. NRS 268.059 is hereby amended to read as follows:

268.059 1. Except as otherwise provided in NRS 268.048 to 268.058, inclusive, 278.479 to 278.4965, inclusive, and subsection ~~[3]~~ ***4*** of NRS 496.080, ***and section 1 of this act,*** except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for the sale or lease of real property to the State or another governmental entity and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, primary or general city election or special election, the governing body shall, when offering any real property for sale or lease:

(a) Except as otherwise provided in this paragraph, obtain two independent appraisals ~~*[Obtain an independent appraisal]*~~ of the real property before selling or leasing it. If the governing body holds a public

hearing on the matter of the fair market value of the real property, one independent appraisal of the real property is sufficient before selling or leasing it. The appraisal or appraisals, as applicable, must be based on the zoning ~~*[fair market value]*~~ of the real property as set forth in the master plan for the city and must have been prepared not more than 6 ~~*[12]*~~ months before the date on which real property is offered for sale or lease.

(b) Select the one ~~*[an]*~~ independent appraiser or two independent appraisers, as applicable, from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each ~~*[the]*~~ appraiser selected pursuant to paragraph (b). The determination of the governing body as to the qualifications of the appraiser is conclusive.

2. The governing body shall adopt by ordinance the procedures for creating or amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the governing body. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the property owner or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any real property offered for sale or lease by the governing body if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the real property or an adjoining property.

5. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 3. NRS 268.061 is hereby amended to read as follows:

268.061 1. Except as otherwise provided in this subsection and NRS 268.048 to 268.058, inclusive, 268.063, 278.479 to 278.4965, inclusive, and subsection ~~[3]~~ ***4*** of NRS 496.080, ***and section 1 of this act,*** except as otherwise provided by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose and except for the sale or lease of real property

larger than 1 acre which is approved by the voters at a primary or general election, primary or general city election or special election:

(a) If a governing body has determined by resolution that the sale or lease of any real property owned by the city will be in the best interest of the city, it may sell or lease the real property in the manner prescribed for the sale or lease of real property in NRS 268.062.

(b) Before the governing body may sell or lease any real property as provided in paragraph (a), it shall:

(1) Post copies of the resolution described in paragraph (a) in three public places in the city; and

(2) Cause to be published at least once a week for 3 successive weeks, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(I) A description of the real property proposed to be sold or leased in such a manner as to identify it;

(II) The minimum price, if applicable, of the real property proposed to be sold or leased; and

(III) The places at which the resolution described in paragraph (a) has been posted pursuant to subparagraph (1), and any other places at which copies of that resolution may be obtained.

➥ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

(c) If the governing body by its resolution finds additionally that the real property to be sold is worth more than $1,000, the governing body shall , as applicable, conduct an appraisal or appraisals pursuant to NRS 268.059 to determine the value of the real property. Except for real property acquired pursuant to NRS 371.047, the governing body shall not sell or lease it for less than the highest appraised value.

(d) If the real property is appraised at $1,000 or more, the governing body may:

(1) Lease the real property; or

(2) Sell the real property for:

(I) Cash; or

(II) Not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a mortgage or deed of trust bearing such interest and upon such further terms as the governing body may specify.

(e) A governing body may sell or lease any real property owned by the city without complying with the provisions of this section and NRS 268.059 and 268.062 to:

(1) A person who owns real property located adjacent to the real property to be sold or leased if the governing body has determined by

resolution that the sale or lease will be in the best interest of the city and the real property is a:

(I) Remnant that was separated from its original parcel due to the construction of a street, alley, avenue or other thoroughfare, or portion thereof, flood control facility or other public facility;

(II) Parcel that, as a result of its size, is too small to establish an economically viable use by anyone other than the person who owns real property adjacent to the real property offered for sale or lease; or

(III) Parcel which is subject to a deed restriction prohibiting the use of the real property by anyone other than the person who owns real property adjacent to the real property offered for sale or lease.

(2) The State or another governmental entity if:

(I) The sale or lease restricts the use of the real property to a public use; and

(II) The governing body adopts a resolution finding that the sale or lease will be in the best interest of the city.

(f) A governing body that disposes of real property pursuant to paragraph (e) is not required to offer to reconvey the real property to the person from whom the real property was received or acquired by donation or dedication.

(g) If real property that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the real property, the governing body may offer the real property for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the real property, the governing body must obtain a new appraisal of the real property pursuant to the provisions of NRS 268.059 before offering the real property for sale or lease a second time. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the real property, the governing body may list the real property for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the real property or an adjoining property.

2. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 4. NRS 268.062 is hereby amended to read as follows:

268.062 1. Except as otherwise provided in this section and NRS 268.048 to 268.058, inclusive, 268.063, 278.479 to 278.4965, inclusive, and subsection ~~[3]~~ ***4*** of NRS 496.080, ***and section 1 of this act,*** except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or

an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, the governing body shall, in open meeting by a majority vote of the members and before ordering the sale or lease at auction of any real property, adopt a resolution declaring its intention to sell or lease the property at auction. The resolution must:

(a) Describe the property proposed to be sold or leased in such a manner as to identify it;

(b) Specify the minimum price and the terms upon which the property will be sold or leased; and

(c) Fix a time, not less than 3 weeks thereafter, for a public meeting of the governing body to be held at its regular place of meeting, at which sealed bids will be received and considered.

2. Notice of the adoption of the resolution and of the time and place of holding the meeting must be given by:

(a) Posting copies of the resolution in three public places in the county not less than 15 days before the date of the meeting; and

(b) Causing to be published at least once a week for 3 successive weeks before the meeting, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold or leased at auction in such a manner as to identify it;

(2) The minimum price of the real property proposed to be sold or leased at auction; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

➥ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. At the time and place fixed in the resolution for the meeting of the governing body, all sealed bids which have been received must, in public session, be opened, examined and declared by the governing body. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or lease and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral bid is accepted or the governing body rejects all bids.

4. Before accepting any written bid, the governing body shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to buy or lease the property upon the terms and conditions specified in the resolution, for a price exceeding by at least 5 percent the highest written bid, then the highest oral bid which is made by a responsible person must be finally accepted.

5. The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 21 days next following.

6. The governing body may, either at the same session or at any adjourned session of the same meeting held within the 21 days next following, if it deems the action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale or lease.

7. Any resolution of acceptance of any bid made by the governing body must authorize and direct the chair of the governing body to execute a deed or lease and to deliver it upon performance and compliance by the purchaser or lessor with all the terms or conditions of the contract which are to be performed concurrently therewith.

8. The governing body may require any person requesting that real property be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the governing body in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

9. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 5. **[**~~NRS 268.063 is hereby amended to read as follows:~~

~~268.063 1. A governing body may sell, lease or otherwise dispose of real property for the purposes of redevelopment or economic development:~~

~~(a) Without first offering the real property to the public; and~~

~~(b) For less than fair market value of the real property.~~

~~2. Before a governing body may sell, lease or otherwise dispose of real property pursuant to this section, the governing body must:~~

~~(a)~~ **[**~~As applicable, obtain~~**]** ~~*Obtain*~~ an appraisal **[**~~or appraisals~~**]** ~~of the property pursuant to NRS 268.059; and~~

~~(b) Adopt a resolution finding that it is in the best interests of the public to sell, lease or otherwise dispose of the property:~~

~~(1) Without offering the property to the public; and~~

~~(2) For less than fair market value of the real property.~~

~~3. If real property is sold, leased or otherwise disposed of in violation of the provisions of this section:~~

~~(a) The sale, lease or other disposal is void; and~~

~~(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale, lease or other disposal.~~

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

~~(a) "Economic development" means:~~

~~(1) The establishment of new commercial enterprises or facilities within the city;~~

~~(2) The support, retention or expansion of existing commercial enterprises or facilities within the city;~~

~~(3) The establishment, retention or expansion of public, quasi-public or other facilities or operations within the city;~~

~~(4) The establishment of residential housing needed to support the establishment of new commercial enterprises or facilities or the expansion of existing commercial enterprises or facilities; or~~

~~(5) Any combination of the activities described in subparagraphs (1) to (4), inclusive,~~

~~← to create and retain opportunities for employment for the residents of the city.~~

~~(b) "Redevelopment" has the meaning ascribed to it in NRS 279.408.]~~ **(Deleted by amendment.)**

Sec. 6. **Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. The board of county commissioners may offer any county-owned building or any portion thereof or any other real property for lease without complying with the provisions of NRS 244.2795, 244.281 and 244.283 if:

(a) The area of the building space or other real property is less than 25,000 square feet; and

(b) The board of county commissioners adopts a resolution stating that it is in the best interest of the county to lease the property:

(1) Without offering the property to the public; and

(2) For less than the fair market value of the building space or other real property, if applicable.

2. The board of county commissioners shall:

(a) Cause to be published at least once, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the county-owned building or portion thereof or the other real property is located, a notice setting forth a description of the county-owned building or portion thereof or the other real property proposed to be leased in such a manner as to identify it; and

(b) Hold a public hearing on the matter not less than 10 or more than 20 days after the date of publication of the notice.

3. A lease of a county-owned building or any portion thereof or any other real property pursuant to this section may be made on such terms and conditions as the board of county commissioners deems proper. The duration of such a lease must not exceed 3 years and may include an extension for not more than an additional 2 years.

Sec. 7. **NRS 244.2795 is hereby amended to read as follows:**

244.2795 1. Except as otherwise provided in NRS 244.189, 244.276, 244.279, 244.2825, 244.2835, 244.284, 244.287, 244.290, 278.479 to 278.4965, inclusive, and subsection 3 of NRS 496.080, ***and section 6 of this act,*** except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on or before October 1, 2004, except if the board of county commissioners is entering into a joint development agreement for real property owned by the county to which the board of county commissioners is a party, except for a lease of residential property with a term of 1 year or less, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for the sale or lease of real property to the State or another governmental entity and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election or special election, the board of county commissioners shall, when offering any real property for sale or lease:

(a) Except as otherwise provided in this paragraph, obtain two independent appraisals of the real property before selling or leasing it. If the board of county commissioners holds a public hearing on the matter of the fair market value of the real property, one independent appraisal of the real property is sufficient before selling or leasing it. The appraisal or appraisals, as applicable, must have been prepared not more than 6 months before the date on which the real property is offered for sale or lease.

(b) Select the one independent appraiser or two independent appraisers, as applicable, from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the board of county commissioners as to the qualifications of the appraiser is conclusive.

2. The board of county commissioners shall adopt by ordinance the procedures for creating or amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the board. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income that may constitute a conflict of interest and any relationship with the real property owner or the owner of an adjoining real property.

4. An appraiser shall not perform an appraisal on any real property for sale or lease by the board of county commissioners if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the real property or an adjoining property.

5. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 8. **NRS 244.281 is hereby amended to read as follows:**

244.281 1. Except as otherwise provided in this subsection and NRS 244.189, 244.276, 244.279, 244.2815, 244.2825, 244.2835, 244.284, 244.287, 244.290, 278.479 to 278.4965, inclusive, and subsection 3 of NRS 496.080, ***and section 6 of this act,*** except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on or before October 1, 2004, except if the board of county commissioners is entering into a joint development agreement for real property owned by the county to which the board of county commissioners is a party, except for a lease of residential property with a term of 1 year or less, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election or special election:

(a) When a board of county commissioners has determined by resolution that the sale or lease of any real property owned by the county will be for purposes other than to establish, align, realign, change, vacate or otherwise adjust any street, alley, avenue or other thoroughfare, or portion thereof, or flood control facility within the county and will be in the best interest of the county, it may:

(1) Sell the property in the manner prescribed for the sale of real property in NRS 244.282.

(2) Lease the property in the manner prescribed for the lease of real property in NRS 244.283.

(b) Before the board of county commissioners may sell or lease any real property as provided in paragraph (a), it shall:

(1) Post copies of the resolution described in paragraph (a) in three public places in the county; and

(2) Cause to be published at least once a week for 3 successive weeks, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(I) A description of the real property proposed to be sold or leased in such a manner as to identify it;

(II) The minimum price, if applicable, of the real property proposed to be sold or leased; and

(III) The places at which the resolution described in paragraph (a) has been posted pursuant to subparagraph (1), and any other places at which copies of that resolution may be obtained.

➥ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

(c) Except as otherwise provided in this paragraph, if the board of county commissioners by its resolution further finds that the property to be sold or leased is worth more than $1,000, the board shall appoint two or more disinterested, competent real estate appraisers pursuant to NRS 244.2795 to appraise the property. If the board of county commissioners holds a public hearing on the matter of the fair market value of the property, one disinterested, competent appraisal of the property is sufficient before selling or leasing it. Except for property acquired pursuant to NRS 371.047, the board of county commissioners shall not sell or lease it for less than the highest appraised value.

(d) If the property is appraised at $1,000 or more, the board of county commissioners may:

(1) Lease the property; or

(2) Sell the property either for cash or for not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a mortgage or deed of trust, bearing such interest and upon such further terms as the board of county commissioners may specify.

(e) A board of county commissioners may sell or lease any real property owned by the county without complying with the provisions of NRS 244.282 or 244.283 to:

(1) A person who owns real property located adjacent to the real property to be sold or leased if the board has determined by resolution that the sale will be in the best interest of the county and the real property is a:

(I) Remnant that was separated from its original parcel due to the construction of a street, alley, avenue or other thoroughfare, or portion thereof, flood control facility or other public facility;

(II) Parcel that, as a result of its size, is too small to establish an economically viable use by anyone other than the person who owns real property adjacent to the real property for sale or lease; or

(III) Parcel which is subject to a deed restriction prohibiting the use of the real property by anyone other than the person who owns real property adjacent to the real property for sale or lease.

(2) The State or another governmental entity if:

(I) The sale or lease restricts the use of the real property to a public use; and

(II) The board adopts a resolution finding that the sale or lease will be in the best interest of the county.

(f) A board of county commissioners that disposes of real property pursuant to paragraph (d) is not required to offer to reconvey the real property to the person from whom the real property was received or acquired by donation or dedication.

(g) If real property that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the real property, the board of county commissioners may offer the real property for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the real property, the board of county commissioners must obtain a new appraisal of the real property pursuant to the provisions of NRS 244.2795 before offering the real property for sale or lease a second time. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the real property, the board of county commissioners may list the real property for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the real property or an adjoining property.

2. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

3. As used in this section, "flood control facility" has the meaning ascribed to it in NRS 244.276.

Sec. 9. **NRS 244.283 is hereby amended to read as follows:**

244.283 1. When the board of county commissioners determines that the lease of real property belonging to the county for industrial, commercial, residential or recreational purposes is necessary or desirable, the board may lease such real property, whether acquired by purchase, dedication or otherwise. Such a lease must not be in contravention of any condition in a gift or devise of real property to the county.

2. Except as otherwise provided in NRS 244.279 ~~[,]~~ ***and section 6 of this act,*** before ordering the lease of any property the board shall, in open meeting by a majority vote of the members, adopt a resolution declaring its intention to lease the property. The resolution must:

(a) Describe the property proposed to be leased in such manner as to identify it.

(b) Specify the minimum rental, and the terms upon which it will be leased.

(c) Fix a time, not less than 3 weeks thereafter, for a public meeting of the board to be held at its regular place of meeting, at which sealed proposals to lease will be received and considered.

3. Notice of the adoption of the resolution and of the time and place of holding the meeting must be given by:

(a) Posting copies of the resolution in three public places in the county not less than 15 days before the date of the meeting; and

(b) Publishing the resolution not less than once a week for 2 successive weeks before the meeting in a newspaper of general circulation published in the county, if any such newspaper is published therein.

4. At the time and place fixed in the resolution for the meeting of the board, all sealed proposals which have been received must, in public session, be opened, examined and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to lease and which are made by responsible bidders, the proposal which is the highest must be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.

5. Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to lease the property upon the terms and conditions specified in the resolution, for a rental exceeding by at least 5 percent the highest written proposal, then the highest oral bid which is made by a responsible person must be finally accepted.

6. A person may not make an oral bid unless, at least 5 days before the meeting held for receiving and considering bids, the person submits to the board written notice of the person's intent to make an oral bid and a statement establishing the person's financial responsibility to the satisfaction of the board.

7. The final acceptance by the board may be made either at the same session or at any adjourned session of the same meeting held within the 21 days next following.

8. The board may, either at the same session or at any adjourned session of the same meeting held within the 21 days next following, if it deems such action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from lease.

9. Any resolution of acceptance of any bid made by the board must authorize and direct the chair to execute a lease and to deliver it upon performance and compliance by the lessee with all the terms or conditions of the lessee's contract which are to be performed concurrently therewith.

10. All money received from rentals of real property must be deposited forthwith with the county treasurer to be credited to the county general fund.

11. This section does not apply to leases of real property made pursuant to NRS 244.288, 334.070 or 338.177.

~~[Sec. 6.]~~ ***Sec. 10.*** This act becomes effective upon passage and approval.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 107.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 322.

SUMMARY—Requires the adoption of certain policies and procedures ~~[regarding]~~ **governing** the ~~[eyewitness]~~ identification of criminal suspects. (BDR 14-614)

AN ACT relating to criminal procedure; requiring the adoption of certain policies and procedures ~~[relating to]~~ **governing** the identification of criminal suspects; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This]~~ **Section 1 of this** bill requires each law enforcement agency to adopt policies and procedures governing **certain** identification procedures conducted to determine whether an eyewitness to a crime is able to identify a suspect as the perpetrator of the crime. ~~[Such]~~ **Specifically, such** identification procedures include live lineups, photo lineups and show-ups. ~~[Section 13 of this bill requires the adoption of policies and procedures that are generally applicable to all identification procedures. Section 14 of this bill requires the adoption of policies and procedures that are specifically applicable to live lineups and photo lineups, in which a suspect or the picture of a suspect is included in a live display or a photo display of a number of other persons. Section 15 of this bill requires the adoption of policies and procedures that are specifically applicable to show-ups, in which a suspect is presented before a witness for positive identification. Section 16 of this bill requires the adoption of policies and procedures that are specifically applicable to the completion of an identification procedure. Section 17 of this bill provides that evidence of failure to comply with any of the policies and procedures required by this bill is admissible in court to challenge the eyewitness identification of a suspect. Section 18 of this bill requires the Peace Officers' Standards and Training Commission to train peace officers in the policies and procedures required by this bill.]~~

Section 2 of this bill requires the Advisory Commission on the Administration of Justice, for two scheduled meetings of the Commission, to include as an item on the agenda a discussion of the progress of law enforcement agencies in adopting such policies and procedures. Section 2 also requires a representative of the Nevada Sheriffs' and Chiefs' Association to appear at those meetings to report on the progress of law enforcement agencies in adopting such policies and procedures.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Delete existing sections 1 through 22 of this bill and replace with the following new sections 1 and 2:

Section 1. **Chapter 171 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Each law enforcement agency shall adopt policies and procedures governing the use of live lineups, photo lineups and show-ups.

2. As used in this section:

(a) "Live lineup" means an identification procedure in which a group of persons, including the suspect, is displayed to an eyewitness to determine whether the eyewitness identifies the suspect as the perpetrator of a crime.

(b) "Photo lineup" means an identification procedure in which an array of photographs, including a photograph of the suspect, is displayed to an eyewitness in hard copy or by digital image to determine whether the eyewitness identifies the suspect as the perpetrator of a crime.

(c) "Show-up" means an identification procedure in which the suspect appears individually for possible identification by the eyewitness as the perpetrator of a crime.

Sec. 2. **1. The Advisory Commission on the Administration of Justice shall, for each of two separate meetings held by the Commission, include as an item on the agenda a discussion of the progress of law enforcement agencies in this State in adopting policies and procedures as required by section 1 of this act. The meetings must be held not later than:**

(a) April 1, 2012, for the first meeting; and

(b) October 1, 2012, for the second meeting.

2. A representative of the Nevada Sheriffs' and Chiefs' Association or its successor organization shall attend each meeting required by subsection 1 to provide a report concerning the progress of law enforcement agencies in this State in adopting such policies and procedures.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 117.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 484.

AN ACT relating to education; authorizing the board of trustees of a school district and the governing body of a charter school to request a waiver from the required minimum number of school days in a school year during an economic hardship; **setting forth certain provisions governing a furlough program of employees of school districts and charter schools as the**

program relates to the Public Employees' Retirement System; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, each school district is required to schedule and provide annually a minimum of 180 days of school in the schools of the school district and a charter school is required to schedule and provide at least as many days of instruction as are required of other public schools in the school district in which the charter school is located. (NRS 386.550, 388.090) **Section 2** of this bill authorizes the board of trustees of a school district and the governing body of a charter school to request a waiver of not more than 10 school days from the required minimum number of school days for a school year during an economic hardship to avoid the layoff of teachers and other educational personnel employed by the school district or charter school. A request for a waiver must be reviewed by the Superintendent of Public Instruction and, if approved, transmitted to the Interim Finance Committee, which makes the final determination of whether to grant a waiver. For purposes of requesting a wavier from the required minimum school days, the circumstances in which an economic hardship exists for a school district or charter school are identical to the circumstances in which an economic hardship exists under existing law for a school district or charter school to request a wavier from the required minimum expenditures for textbooks, instructional supplies, instructional software and instructional hardware. (NRS 387.2065)

The 2009 Session of the Legislature enacted provisions requiring furlough leave of certain state employees and set forth provisions relating to the furlough program and the manner in which the program is carried out as it relates to the Public Employees' Retirement System. (Chapter 391, Statutes of Nevada 2009, p. 2160) Section 7 of this bill sets forth the intent of the Legislature in the establishment of a program certified by the board of trustees of a school district or the governing body of a charter school whereby employees of school districts and charter schools who are members of the Public Employees' Retirement System and who take furlough leave due to extreme fiscal need be held harmless in the accumulation of retirement service credit and reported salary. Section 7 further sets forth provisions concerning the furlough leave as it relates to the Public Employees' Retirement System in a manner similar to the furlough program of state employees.

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

Section 1. NRS 386.550 is hereby amended to read as follows:

386.550 1. A charter school shall:

(a) Comply with all laws and regulations relating to discrimination and civil rights.

(b) Remain nonsectarian, including, without limitation, in its educational programs, policies for admission and employment practices.

(c) Refrain from charging tuition or fees, levying taxes or issuing bonds.

(d) Comply with any plan for desegregation ordered by a court that is in effect in the school district in which the charter school is located.

(e) Comply with the provisions of chapter 241 of NRS.

(f) Except as otherwise provided in this paragraph, schedule and provide annually at least as many days of instruction as are required of other public schools located in the same school district as the charter school is located. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction for a waiver from providing the days of instruction required by this paragraph. ***A request for a waiver from the required minimum number of school days for a charter school that experiences an economic hardship must be submitted pursuant to section 2 of this act and not this paragraph.*** The Superintendent of Public Instruction may grant ~~[such]~~ a request ***submitted pursuant to this paragraph*** if the governing body demonstrates to the satisfaction of the Superintendent that:

(1) Extenuating circumstances exist to justify the waiver; and

(2) The charter school will provide at least as many hours or minutes of instruction as would be provided under a program ~~[consisting]~~ ***:***

(I) Consisting of 180 ***school*** days ~~[.]~~ ***; or***

(II) Consisting of the number of school days for the school year if a reduction in the required minimum number of school days is granted to the charter school pursuant to section 2 of this act.

(g) Cooperate with the board of trustees of the school district in the administration of the achievement and proficiency examinations administered pursuant to NRS 389.015 and the examinations required pursuant to NRS 389.550 to the pupils who are enrolled in the charter school.

(h) Comply with applicable statutes and regulations governing the achievement and proficiency of pupils in this State.

(i) Provide instruction in the core academic subjects set forth in subsection 1 of NRS 389.018, as applicable for the grade levels of pupils who are enrolled in the charter school, and provide at least the courses of study that are required of pupils by statute or regulation for promotion to the next grade or graduation from a public high school and require the pupils who are enrolled in the charter school to take those courses of study. This paragraph does not preclude a charter school from offering, or requiring the pupils who are enrolled in the charter school to take, other courses of study that are required by statute or regulation.

(j) If the parent or legal guardian of a child submits an application to enroll in kindergarten, first grade or second grade at the charter school, comply with NRS 392.040 regarding the ages for enrollment in those grades.

(k) Refrain from using public money to purchase real property or buildings without the approval of the sponsor.

(l) Hold harmless, indemnify and defend the sponsor of the charter school against any claim or liability arising from an act or omission by the governing body of the charter school or an employee or officer of the charter school. An action at law may not be maintained against the sponsor of a charter school for any cause of action for which the charter school has obtained liability insurance.

(m) Provide written notice to the parents or legal guardians of pupils in grades 9 to 12, inclusive, who are enrolled in the charter school of whether the charter school is accredited by the Commission on Schools of the Northwest ~~[Association of Schools and of Colleges and Universities.]~~ ***Accreditation Commission.***

(n) Adopt a final budget in accordance with the regulations adopted by the Department. A charter school is not required to adopt a final budget pursuant to NRS 354.598 or otherwise comply with the provisions of chapter 354 of NRS.

(o) If the charter school provides a program of distance education pursuant to NRS 388.820 to 388.874, inclusive, comply with all statutes and regulations that are applicable to a program of distance education for purposes of the operation of the program.

2. A charter school shall not provide instruction through a program of distance education to children who are exempt from compulsory attendance authorized by the State Board pursuant to subsection 1 of NRS 392.070. As used in this subsection, "distance education" has the meaning ascribed to it in NRS 388.826.

Sec. 2. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a school district or the governing body of a charter school that experiences an economic hardship may submit a written request to the Superintendent of Public Instruction on a form prescribed by the Department for a waiver of not more than 10 days of the required minimum number of school days in a school year to avoid, during the economic hardship, the layoff of teachers and other educational personnel employed by the school district or charter school.

2. Upon receipt of a written request pursuant to subsection 1, the Superintendent of Public Instruction shall consider the request and determine whether an economic hardship exists for the school district or charter school and whether a wavier of the required number of school days is necessary to avoid, during the economic hardship, the layoff of teachers and other educational personnel employed by the school district or charter school. The Superintendent of Public Instruction may request additional information from the applicant in making the determination. If the Superintendent of Public Instruction determines that an economic hardship exists for the applicant and that a waiver of the required number of school days is necessary to avoid, during the economic hardship, the layoff of teachers and other educational personnel employed by the

applicant, the Superintendent shall forward the written request to the Interim Finance Committee, including the basis for the Superintendent's determination and any recommendations for the number of school days that may be waived, which must not exceed 10 school days.

3. Upon receipt of a written request from the Superintendent of Public Instruction pursuant to subsection 2, the Interim Finance Committee shall consider the request and determine whether an economic hardship exists for the school district or charter school and whether a waiver of the required minimum number of school days is necessary to avoid, during the economic hardship, the layoff of teachers and other educational personnel employed by the school district or charter school. The Interim Finance Committee may request additional information from the applicant in making the determination. If the Interim Finance Committee grants a waiver, the Committee shall by resolution set forth:

(a) The grounds for its determination; and

(b) The number of school days that may be waived for the school year by the school district or charter school, which must not exceed 10 school days.

4. If the Interim Finance Committee grants a waiver pursuant to subsection 3 and subsequently the economic hardship to the school district or charter school is mitigated because the actual revenue attributable to the school district or charter school exceeds projections or the actual expenses incurred by the school district or charter school are less than anticipated, the school district or charter school must add accordingly school days to the school year for which the wavier was granted.

5. For purposes of this section, an economic hardship exists for a school district or charter school if:

(a) Projections of revenue do not meet or exceed the revenue anticipated at the time the basic support guarantees are established for the fiscal year pursuant to NRS 387.122; or

(b) The school district or charter school incurs unforeseen expenses, including, without limitation, expenses related to a natural disaster.

6. A waiver granted pursuant to this section does not affect any right or remedy available pursuant to the provisions of chapter 288 of NRS, any obligation of the board of trustees of a school district or the governing body of a charter school pursuant to chapter 288 of NRS or any contract negotiated by the board of trustees of a school district or the governing body of a charter school pursuant to chapter 288 of NRS.

Sec. 3. NRS 388.090 is hereby amended to read as follows:

388.090 1. Except as otherwise provided in this section ~~[,]~~ ***and section 2 of this act,*** boards of trustees of school districts shall schedule and provide a minimum of 180 days of free school in the districts under their charge.

2. Except for an alternative schedule described in subsection 3, the Superintendent of Public Instruction may, upon application by the board of trustees of a school district, authorize the school district to provide a program of instruction based on an alternative schedule if the number of minutes of

instruction to be provided is equal to or greater than the number of minutes of instruction that would be provided in a program of instruction consisting of 180 school days ~~[.]~~ ***or consisting of the number of school days for the school year if a reduction in the required minimum number of school days is granted to the school district pursuant to section 2 of this act.*** The Superintendent of Public Instruction shall notify the board of trustees of the school district of the approval or denial of the application not later than 30 days after the Superintendent of Public Instruction receives the application. An alternative schedule proposed pursuant to this subsection must be developed in accordance with chapter 288 of NRS. If a school district is located in a county whose population is 100,000 or more, the board of trustees of the school district may not submit an application pursuant to this subsection unless the proposed alternative schedule of the school district:

(a) Will apply only to a rural portion or a remote portion of the county in which the school district is located, as defined by the State Board pursuant to subsection 9; or

(b) Is designed solely for the purpose of providing regular professional development to educational personnel and such professional development is focused on analyzing and discussing measures of the performance of pupils and identifying appropriate instructional strategies to improve the achievement of pupils.

3. The Superintendent of Public Instruction may, upon application by the board of trustees of a school district, authorize a reduction of not more than 15 school days in that particular district to establish or maintain an alternative schedule consisting of a 12-month school program if the board of trustees demonstrates that the proposed alternative schedule for the program provides for a number of minutes of instruction that is equal to or greater than that which would be provided under a program consisting of 180 school days ~~[.]~~ ***or consisting of the number of school days for the school year if a reduction in the required minimum number of school days is granted to the school district pursuant to section 2 of this act.*** Before authorizing a reduction in the number of required school days pursuant to this subsection, the Superintendent of Public Instruction must find that the proposed alternative schedule will be used to alleviate problems associated with a growth in enrollment or overcrowding.

4. The Superintendent of Public Instruction may, upon application by a board of trustees, authorize the addition of minutes of instruction to any scheduled day of free school if days of free school are lost because of any interscholastic activity. Not more than 5 days of free school so lost may be rescheduled in this manner. The provisions of this subsection do not apply to an alternative schedule approved pursuant to subsection 2.

5. The number of minutes of instruction required for a particular group of pupils in a program of instruction based on an alternative schedule approved pursuant to this section must be determined by multiplying the appropriate minimum daily period of instruction established by the State Board by

regulation for that particular group of pupils by 180 ~~[.]~~ ***or by the number of school days for the school year if a reduction in the required minimum number of school days is granted to the school district pursuant to section 2 of this act.***

6. Each school district shall schedule at least 3 contingent days of school, or its equivalent if the school district operates under an alternative schedule authorized pursuant to this section, in addition to the number of days required by this section, which must be used if a natural disaster, inclement weather or an accident necessitates the closing of a majority of the facilities within the district. The 3 contingent days of school, or its equivalent, may be scheduled as:

(a) Full days of school;

(b) An equivalent number of minutes of instruction added to any scheduled day of instruction, except that the minutes added must not be less than 30 minutes per school day; or

(c) Any combination thereof.

7. If more than 3 days of free school or minutes of instruction equaling 3 days of free school, or the equivalent if the school district operates under an alternative schedule authorized pursuant to this section, are lost because a natural disaster, inclement weather or an accident necessitates the closing of a majority of the facilities within a school district, the Superintendent of Public Instruction, upon application by the school district, may permit the additional days or equivalent minutes of instruction lost to be counted as school days in session. The application must be submitted in the manner prescribed by the Superintendent of Public Instruction.

8. The Superintendent of Public Instruction may, upon application by the board of trustees of a school district, authorize additional days or minutes of instruction for a program of remedial education that is fully paid for through the school district, including, without limitation, the provision of transportation. If the Superintendent of Public Instruction authorizes such additional days or minutes, the board of trustees may adopt a policy prescribing the minimum number of days of attendance or the minimum number of minutes of attendance for a pupil who is determined to need such remedial education. If the board of trustees adopts such a policy, the policy must include, without limitation, the criteria for determining that a pupil be enrolled in the program of remedial education, the procedure pursuant to which parents and guardians will be notified of the pupil's progress throughout the school year and a process for appealing a determination regarding a pupil's need for remedial education.

9. The State Board shall adopt regulations:

(a) Providing procedures for changing schedules of instruction to be used if a natural disaster, inclement weather or an accident necessitates the closing of a particular school within a school district.

(b) Defining a rural portion of a county and a remote portion of a county for the purposes of subsection 2.

Sec. 4. NRS 388.537 is hereby amended to read as follows:

388.537 1. The board of trustees of a school district may, subject to the approval of the Superintendent of Public Instruction, operate an alternative program for the education of pupils at risk of dropping out of school, including pupils who are enrolled in kindergarten or grades 1 to 12, inclusive.

2. The board of trustees of a school district may submit to the Department, in the form prescribed by the Department, a plan to operate an alternative program.

3. The Superintendent of Public Instruction shall review each plan to operate an alternative program submitted to the Department and approve or deny the plan. Approval by the Superintendent constitutes approval of each component of the plan for the alternative program.

4. If a plan for an alternative program is denied by the Superintendent of Public Instruction, the board of trustees of a school district may appeal the decision of the Superintendent to the State Board. The State Board may approve or deny the plan for the alternative program upon appeal.

5. An alternative program may include:

(a) A shorter school day or an opportunity for pupils to attend a longer school day than that regularly provided in the school district. The alternative program must provide for a number of minutes of instruction that is equal to or greater than that which would be provided under a program ~~[consisting]~~ ***:***

(1) Consisting of 180 school days ~~[.]~~ ***; or***

(2) Consisting of the number of school days for the school year if a reduction in the required minimum number of school days is granted to the school district pursuant to section 2 of this act.

(b) An opportunity for pupils to attend classes of instruction during any part of the calendar year.

(c) A comprehensive curriculum that includes elective classes of instruction and career and technical education.

(d) An opportunity for pupils to obtain academic credit through experience gained at work or while engaged in other activities.

(e) An opportunity for pupils to satisfy either:

(1) The requirements for a regular high school diploma; or

(2) The requirements for an adult standard diploma.

(f) The provision of child care for the children of pupils.

(g) The transportation of pupils to and from classes of instruction.

(h) The placement of pupils for independent study pursuant to NRS 389.155, if the board of trustees of the school district determines that the pupil would benefit from such placement.

6. The board of trustees of a school district may operate an alternative program pursuant to this section through a program of distance education pursuant to NRS 388.820 to 388.874, inclusive.

Sec. 5. NRS 388.842 is hereby amended to read as follows:

388.842 1. A program of distance education may include, without limitation, an opportunity for pupils to participate in the program:

(a) For a shorter school day or a longer school day than that regularly provided for in the school district or charter school, as applicable; and

(b) During any part of the calendar year.

2. If a program of distance education is provided for pupils on a full-time basis, the program must include at least as many hours or minutes of instruction as would be provided under a program ~~[consisting]~~ ***:***

(a) Consisting of 180 ***school*** days ~~[.]~~ ***; or***

(b) Consisting of the number of school days for the school year if a reduction in the required minimum number of school days is granted to the school district or charter school pursuant to section 2 of this act.

Sec. 6. NRS 218E.405 is hereby amended to read as follows:

218E.405 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, NRS 284.1729, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, 353.288, 353.335, 353C.226, ***387.2065, section 2 of this act,*** paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chair of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chair of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chair appoints such a subcommittee:

(a) The Chair shall designate one of the members of the subcommittee to serve as the chair of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chair of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or the Director's designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 7. **1. It is the intent of the Legislature that if the board of trustees of a school district or the governing body of a charter school certifies a furlough program whereby employees of the school district or charter school who are members of the Public Employees' Retirement System and who take furlough leave pursuant to the program due to**

extreme fiscal need be held harmless in the accumulation of retirement service credit and reported salary pursuant to chapter 286 of NRS.

2. Except as otherwise required as a result of NRS 286.537 and notwithstanding the provisions of NRS 286.481, if an employee of a school district or charter school who participates in the Public Employees' Retirement System is required to take furlough leave pursuant to a furlough program certified by the board of trustees of the school district or the governing body of the charter school, the employee is entitled to receive full service credit for the time taken as furlough leave in the same manner as service credit is computed pursuant to NRS 286.501 if:

(a) The employee does not take more than 96 hours of furlough leave in a school year; and

(b) The board of trustees of the school district or the governing body of the charter school certifies to the Public Employees' Retirement System that the school district or charter school is participating in a furlough program and that the furlough leave which is reported for the employee is taken in accordance with the requirements of that program.

3. In any month in which a day of furlough leave is taken, an employee is entitled to receive full-time service credit in the same manner as service credit is computed pursuant to NRS 286.501 for the furlough leave in accordance with the normal workday for the employee. An employee who is less than full-time is entitled to service credit in the same manner as service credit is computed pursuant to NRS 286.501 and in the same manner and to the same extent as though the employee had worked the hours taken as furlough leave.

4. When a member is on furlough leave pursuant to this section as certified by the board of trustees of the school district or the governing body of the charter school, the board of trustees or the governing body must:

(a) Include all information required by the Public Employees' Retirement System on the board of trustees' or governing body's regular monthly retirement report as provided in NRS 286.460; and

(b) Pay all required employer and employee contributions to the Public Employees' Retirement System based on the compensation that would have been paid to the member but for the member's participation in the program. The board of trustees of the school district and the governing body of the charter school may recover from the employee the amount of the employee contributions set forth in NRS 286.410.

5. Except as otherwise required by this section, the terms and conditions of any furlough program certified by the board of trustees of the school district or the governing body of a charter school must be negotiated pursuant to chapter 288 of NRS.

6. Service credit under a furlough program certified by the board of trustees of a school district or the governing body of a charter school must be computed according to the school year.

7. As used in this section, "member" has the meaning ascribed to it in NRS 286.050.

~~[Sec. 7.]~~ ***Sec. 8.*** **1.** This **section and sections 1 to 6, inclusive, of this** act ~~[becomes]~~ **become** effective on July 1, 2011.

2. Section 7 of this act becomes effective on July 1, 2011, and expires by limitation on June 30, 2013.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 135.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 321.

AN ACT relating to probation; ~~[prohibiting a court from ordering a term of imprisonment for certain]~~ **revising provisions concerning** violations of probation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a court, upon determining that a person has violated a condition of probation, to: (1) continue or revoke the probation or suspension of sentence; (2) order a term of residential confinement; (3) order a program of regimental discipline; (4) cause the sentence imposed to be executed; or (5) modify the original sentence. (NRS 176A.630) This bill ~~[prohibits a court from ordering]~~ **provides that a court may not revoke the probation and suspend the sentence of** such a probationer ~~[to serve a term of imprisonment for violating a condition of probation]~~ **and cause the sentence imposed to be executed** unless ~~[the probationer has been convicted of another crime while on probation or]~~ the court ~~[determines that the imprisonment is necessary to protect the community from further criminal activity by the probationer.]~~ **makes certain findings and states those findings on the record. This bill further: (1) provides that a court may not revoke the probation and suspend the sentence of such a probationer and cause the sentence imposed to be executed solely based on the probationer's failure to pay an administrative assessment or certain fees and expenses; and (2) authorizes the court to provide for the forfeiture of certain credits for good behavior of the probationer or extend the period of probation of the probationer if the probationer willfully fails to pay those assessments, fees or expenses.**

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

Section 1. NRS 176A.630 is hereby amended to read as follows:

176A.630 ***1.*** If the probationer is arrested, by or without warrant, in another judicial district of this state, the court which granted the probation may assign the case to the district court of that district, with the consent of that court. The court retaining or thus acquiring jurisdiction shall cause the defendant to be brought before it, consider the standards adopted pursuant to NRS 213.10988 and the recommendation, if any, of the Chief Parole and Probation Officer. Upon determining that the probationer has violated a condition of probation, the court shall, if practicable, order the probationer to make restitution for any necessary expenses incurred by a governmental entity in returning the probationer to the court for violation of the probation. ~~[~~The~~]~~ ***Except as otherwise provided in*** ~~*[subsection 2,]*~~ ***subsections 2 and 3, the*** court may:

~~[~~1.~~]~~ ***(a)*** Continue or revoke the probation or suspension of sentence;

~~[~~2.~~]~~ ***(b)*** Order the probationer to a term of residential confinement pursuant to NRS 176A.660;

~~[~~3.~~]~~ ***(c)*** Order the probationer to undergo a program of regimental discipline pursuant to NRS 176A.780;

~~[~~4.~~]~~ ***(d)*** Cause the sentence imposed to be executed; or

~~[~~5.~~]~~ ***(e)*** Modify the original sentence imposed by reducing the term of imprisonment and cause the modified sentence to be executed. The court shall not make the term of imprisonment less than the minimum term of imprisonment prescribed by the applicable penal statute. If the Chief Parole and Probation Officer recommends that the sentence of a probationer be modified and the modified sentence be executed, the Chief Parole and Probation Officer shall provide notice of the recommendation to any victim of the crime for which the probationer was convicted who has requested in writing to be notified and who has provided a current address to the Division. The notice must inform the victim that he or she has the right to submit documents to the court and to be present and heard at the hearing to determine whether the sentence of a probationer who has violated a condition of probation should be modified. The court shall not modify the sentence of a probationer and cause the sentence to be executed until it has confirmed that the Chief Parole and Probation Officer has complied with the provisions of this ~~[~~subsection.~~]~~ ***paragraph.*** The Chief Parole and Probation Officer must not be held responsible when such notification is not received by the victim if the victim has not provided a current address. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division pursuant to this ~~[~~subsection~~]~~ ***paragraph*** is confidential.

2. The court ~~*[shall not order the probationer to serve a term of imprisonment for violating a condition of probation unless:*~~

~~*(a) The probationer has been convicted of a violation of any federal, state or local law, except a minor traffic offense, which was committed while the probationer was on probation; or*~~

~~(b) The~~ ***may not revoke the probation and the suspension of the sentence of the probationer and cause the sentence imposed to be executed unless the court finds on the basis of the circumstances of the original crime and the conduct of the probationer while he or she was on probation that ~~[imprisonment]~~ :***

(a) Imprisonment is necessary to protect the community from further criminal activity by the probationer ~~[.]~~ ;

(b) The probationer is in need of treatment which can most effectively be provided if he or she is imprisoned;

(c) The seriousness of the violation or the totality of the violations by the probationer warrant revocation of probation and suspension of the sentence of the probationer and execution of the sentence imposed; or

(d) The violation demonstrates that the probationer cannot be supervised by a parole and probation officer pursuant to the practices and policies governing probation established by the Division.

3. The court may not revoke the probation and the suspension of the sentence of the probationer and cause the sentence imposed to be executed solely based on the probationer's failure to pay an administrative assessment, a fee described in NRS 176.0915 or the expenses of his or her defense. If the court determines that a probationer willfully failed to pay an administrative assessment, a fee described in NRS 176.0915 or the expenses of his or her defense, the court may:

(a) Pursuant to NRS 176A.635, provide for the forfeiture of all or part of the credits for good behavior earned by the probationer pursuant to NRS 176A.500; or

(b) Extend the period of probation of the probationer.

4. If the court revokes probation and the suspension of the sentence of the probationer and causes the sentence imposed to be executed, the court shall state on the record the court's findings pursuant to subsection 2 that support the reasons for such revocation and execution of the sentence.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 141.

Bill read second time.

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

Amendment No. 284.

AN ACT relating to occupational diseases; expanding the frequency with which certain volunteer firefighters must submit to physical examinations to receive workers' compensation coverage for certain occupational diseases; **revising provisions relating to the procedure for scheduling such physical examinations under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, an employee who contracts an occupational disease arising out of and in the course of his or her employment is generally entitled to receive benefits for workers' compensation. (Chapter 617 of NRS) Specifically, if an employee has been employed for 2 years or more as a full-time salaried firefighter, arson investigator or police officer or has acted for 2 years or more as a volunteer firefighter who is entitled to benefits for workers' compensation, any disease of the lungs caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases arising out of and in the course of employment is an occupational disease for which the employee is entitled to receive workers' compensation. To receive coverage for such an occupational disease, the employee must submit to a physical examination upon initial employment, upon commencement of the coverage, once every even-numbered year until the employee is 40 years of age or older and on an annual basis thereafter during his or her employment. (NRS 617.455) **Section 1** of this bill requires a volunteer firefighter ~~[who]~~ **to submit to a physical examination upon employment, commencement of coverage and once every 3 years after commencement of coverage until the volunteer firefighter** is ~~[40]~~ **50** years of age or older ~~[to submit to the physical examination]~~ **and** once every 2 years **thereafter** instead of on an annual basis.

Existing law provides similar coverage for a volunteer firefighter who contracts a disease of the heart and who, for 5 years or more, has served continuously as a volunteer firefighter in Nevada. To receive coverage for such an occupational disease, the volunteer firefighter is required to submit to a physical examination upon initial employment, once every 3 years after the initial examination until he or she reaches the age of 50 years and once each year if he or she is 50 years of age or older. (NRS 617.457) **Section 2** of this bill requires a volunteer firefighter ~~[who]~~ **to submit to a physical examination upon employment, upon commencement of coverage and once every 3 years after commencement of the coverage until the volunteer firefighter** is 50 years of age or older ~~[to submit to the physical examination]~~ **and** once every 2 years **thereafter** instead of once each year. **Section 2 also requires employers to follow certain procedures when scheduling physical examinations for volunteer firefighters.**

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

Section 1. NRS 617.455 is hereby amended to read as follows:

617.455 1. Notwithstanding any other provision of this chapter, diseases of the lungs, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, arising out of and in the course of the employment of a person who, for 2 years or more, has been:

(a) Employed in this State in a full-time salaried occupation of fire fighting or the investigation of arson for the benefit or safety of the public;

(b) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; or

(c) Employed in a full-time salaried occupation as a police officer in this State.

2. Except as otherwise provided in subsection 3, each employee who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to a physical examination, including a thorough test of the functioning of his or her lungs and the making of an X-ray film of the employee's lungs, upon employment, upon commencement of the coverage, once every ~~[even-numbered year]~~ ***2 years*** until the employee is 40 years of age or older and thereafter on an annual basis during his or her employment.

3. ~~[A thorough test of the functioning of the lungs is not required for a volunteer firefighter. *A]*~~ ***Each volunteer firefighter who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to:***

(a) A physical examination upon employment and upon commencement of the coverage; and

(b) The making of an X-ray film of the volunteer firefighter's lungs once every 3 years after the physical examination that is required upon commencement of the coverage,

➥ until the volunteer firefighter reaches the age of 50 years. Each volunteer firefighter who is ~~*[40]*~~ ***50 years of age or older shall submit to*** ~~*[the]*~~ ***a physical examination*** ~~*[required pursuant to subsection 2]*~~ ***once every 2 years during his or her employment. As used in this subsection, "physical examination" includes the making of an X-ray film of the volunteer firefighter's lungs but excludes a thorough test of the functioning of his or her lungs.***

4. All physical examinations required pursuant to ~~[subsection]~~ ***subsections*** 2 ***and 3*** must be paid for by the employer.

5. A disease of the lungs is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer, firefighter or arson investigator for 5 years or more before the date of disablement.

6. Failure to correct predisposing conditions which lead to lung disease when so ordered in writing by the examining physician after ~~[the annual or biennial]~~ ***a physical*** examination ***required pursuant to subsection 2 or 3*** excludes the employee from the benefits of this section if the correction is within the ability of the employee.

7. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, police officer or arson investigator,

➥ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

Sec. 2. NRS 617.457 is hereby amended to read as follows:

617.457 1. Notwithstanding any other provision of this chapter, diseases of the heart of a person who, for 5 years or more, has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter, arson investigator or police officer in this State before the date of disablement are conclusively presumed to have arisen out of and in the course of the employment.

2. Notwithstanding any other provision of this chapter, diseases of the heart, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by extreme overexertion in times of stress or danger and a causal relationship can be shown by competent evidence that the disability or death arose out of and was caused by the performance of duties as a volunteer firefighter by a person entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145 and who, for 5 years or more, has served continuously as a volunteer firefighter in this State by continuously maintaining an active status on the roster of a volunteer fire department.

3. Except as otherwise provided in subsection 4, each employee who is to be covered for diseases of the heart pursuant to the provisions of this section shall submit to a physical examination, including an examination of the heart, upon employment, upon commencement of coverage and thereafter on an annual basis during his or her employment.

4. ~~[A]~~ ***During the period in which a volunteer firefighter is continuously on active status on the roster of a volunteer fire department, a*** physical examination for ~~[a]~~ ***the*** volunteer firefighter is required ~~[upon initial]~~ **:**

(a) Upon employment **;**

(b) Upon commencement of coverage; and ~~[once]~~

(c) Once every 3 years after the ~~[initial]~~ ***physical*** examination ***that is required pursuant to paragraph (b),***

➥ until the firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once ~~[each year.]~~ ***every 2 years during his or her employment.***

5. The employer of the volunteer firefighter is responsible for scheduling the physical examination. ***The employer shall mail to the volunteer firefighter a written notice of the date, time and place of the physical examination at least 10 days before the date of the physical examination and shall obtain, at the time of mailing, a certificate of mailing issued by the United States Postal Service.***

6. Failure to submit to a physical examination that is scheduled by his or her employer pursuant to subsection 5 excludes the volunteer firefighter from the benefits of this section.

7. The chief of a volunteer fire department may require an applicant to pay for any physical examination required pursuant to this section if the applicant:

(a) Applies to the department for the first time as a volunteer firefighter; and

(b) Is 50 years of age or older on the date of his or her application.

8. The volunteer fire department shall reimburse an applicant for the cost of a physical examination required pursuant to this section if the applicant:

(a) Paid for the physical examination in accordance with subsection 7;

(b) Is declared physically fit to perform the duties required of a firefighter; and

(c) Becomes a volunteer with the volunteer fire department.

9. Except as otherwise provided in subsection 7, all physical examinations required pursuant to subsections 3 and 4 must be paid for by the employer.

10. Failure to correct predisposing conditions which lead to heart disease when so ordered in writing by the examining physician subsequent to ~~[the annual *or biennial*]~~ ***a physical*** examination ***required pursuant to subsection 3 or 4*** excludes the employee from the benefits of this section if the correction is within the ability of the employee.

11. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, arson investigator or police officer,

➥ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

12. Claims filed under this section may be reopened at any time during the life of the claimant for further examination and treatment of the claimant upon certification by a physician of a change of circumstances related to the occupational disease which would warrant an increase or rearrangement of compensation.

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

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 149.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 474.

AN ACT relating to malpractice; revising provisions relating to the affidavit of a medical expert which is required to be filed in medical and dental malpractice actions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a district court to dismiss an action for medical malpractice or dental malpractice if the action is filed without an affidavit of a medical expert that supports the allegations in the action. (NRS 41A.071) This bill authorizes the plaintiff's attorney in such an action to file the affidavit of a medical expert at a later time under certain circumstances. **This bill also authorizes the defendant to file a responsive pleading within 20 days after receiving the affidavit.**

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

Section 1. NRS 41A.071 is hereby amended to read as follows:

41A.071 ~~[If]~~

1. Except as otherwise provided in subsection 2, if an action for medical malpractice or dental malpractice is filed in the district court, the district court shall dismiss the action, without prejudice, if the action is filed without an affidavit, supporting the allegations contained in the action, submitted by a medical expert who practices or has practiced in an area that is substantially similar to the type of practice engaged in at the time of the alleged malpractice.

2. The plaintiff's attorney in such an action may file the affidavit required pursuant to subsection 1 ~~*[at a later time]*~~ ***not later than the period of limitation prescribed by NRS 41A.097 if the substance of the affidavit was incorporated into the body of the complaint and its absence was caused by a clerical error,*** ~~*[or the attorney could not consult with an expert and prepare the affidavit before filing the action without causing the action to be impaired or barred by the statute of limitations or repose, or other limitations prescribed by law. If the attorney must submit the affidavit late, the attorney shall file an affidavit concurrently with the service of the first pleading in the action stating the reason for failing to comply with subsection 1 and the attorney shall consult with an expert and file the affidavit required pursuant to subsection 1 not later than 45 days after filing the action.]*~~ ***mistake, inadvertence, surprise or excusable neglect. The claim for medical malpractice or dental malpractice shall be deemed to be served upon the defendant when the defendant has received personal service of a copy of:***

(a) The summons and the complaint; and

(b) The affidavit required pursuant to subsection 1.

3. If, as authorized pursuant to subsection 2, the affidavit required pursuant to subsection 1 is filed after the action for medical malpractice or dental malpractice is filed in district court, the defendant may file a responsive pleading within 20 days after the affidavit is filed.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 161 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Horne moved that Assembly Bill No. 258 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 179.

Bill read second time.

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

Amendment No. 494.

SUMMARY—Revises provisions relating to disciplinary action against a ~~[state]~~ **public** employee. (BDR 23-841)

AN ACT relating to ~~[state]~~ **public** personnel; requiring that certain procedures be followed before taking disciplinary action against a ~~[state]~~ **public** employee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, an appointing authority may dismiss or demote a permanent classified employee if the appointing authority considers that the dismissal or demotion will serve the good of the public service, and the appointing authority may suspend a permanent employee without pay for disciplinary purposes for up to 30 days. (NRS 284.385) The employee may then request a hearing to determine whether the dismissal, demotion or suspension was reasonable. (NRS 284.390)

~~[Section 1 of this bill requires an appointing authority to provide appropriate training, warnings and notice of a policy and of the procedure for disciplinary action before taking disciplinary action against an employee. Section 1 also requires the appointing authority to assign one supervisor to conduct a fact-finding investigation and a second supervisor to determine whether substantial evidence of the allegation exists based on the investigation, if the accused employee disputes the allegation that would form the basis of a disciplinary action.]~~ **Section 1.5 of this bill requires an appointing authority to provide each employee of the appointing authority with a copy of a policy approved by the Personnel Commission that explains certain information relating to disciplinary action. Section 2 of this bill requires an appointing authority to consult with the Attorney General or, if the appointing authority is part of the Nevada**

System of Higher Education, its general counsel, regarding any proposed disciplinary action before imposing the disciplinary action. Section 3 of this bill requires certain investigations relating to disciplinary action against a public employee to be completed within 90 days after the employee is given notice of the allegations or investigation and provide for an extension of that time period.

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

Section 1. (Deleted by amendment.)

Sec. 1.5. **NRS 284.383 is hereby amended to read as follows:**

284.383 1. The Commission shall adopt by regulation a system for administering disciplinary measures against a state employee in which, except in cases of serious violations of law or regulations, less severe measures are applied at first, after which more severe measures are applied only if less severe measures have failed to correct the employee's deficiencies.

2. The system adopted pursuant to subsection 1 must provide that a state employee is entitled to receive a copy of any findings or recommendations made by an appointing authority or the representative of the appointing authority, if any, regarding proposed disciplinary action.

3. An appointing authority shall provide each permanent classified employee of the appointing authority with a copy of a policy approved by the Commission that explains prohibited acts, possible violations and penalties and a fair and equitable process for taking disciplinary action against such an employee.

Sec. 2. NRS 284.385 is hereby amended to read as follows:

284.385 1. An ~~*[After making the determinations required by section 1 of this act, an]*~~ appointing authority may:

(a) Dismiss or demote any permanent classified employee when the appointing authority considers that the good of the public service will be served thereby.

(b) Except as otherwise provided in NRS 284.148, suspend without pay, for disciplinary purposes, a permanent employee for a period not to exceed 30 days.

2. ***Before a permanent classified employee is dismissed, involuntarily demoted or suspended, the appointing authority must consult with the Attorney General or, if the employee is employed by the Nevada System of Higher Education, the appointing authority's general counsel, regarding the proposed discipline.***

3. A dismissal, involuntary demotion or suspension does not become effective until the employee is notified in writing of the dismissal, involuntary demotion or suspension and the reasons therefor. The notice may be delivered personally to the employee or mailed to the employee at the employee's last known address by registered or certified mail, return receipt

requested. If the notice is mailed, the effective date of the dismissal, involuntary demotion or suspension shall be deemed to be the date of delivery or if the letter is returned to the sender, 3 days after mailing.

~~[3.]~~ ***4.*** No employee in the classified service may be dismissed for religious or racial reasons.

Sec. 3. NRS 284.387 is hereby amended to read as follows:

284.387 ***1.*** An employee who is the subject of an internal administrative investigation that could lead to disciplinary action against the employee pursuant to NRS 284.385 must be:

~~[1.]~~ ***(a)*** Provided notice in writing of the allegations against the employee before the employee is questioned regarding the allegations; and

~~[2.]~~ ***(b)*** Afforded the right to have a lawyer or other representative of the employee's choosing present with the employee at any time that the employee is questioned regarding those allegations. The employee must be given not less than 2 business days to obtain such representation, unless the employee waives the employee's right to be represented. ~~*[The employee shall be deemed to have waived his or her right to be represented unless the employee states his or her desire to have a lawyer or other representative present after the employee is provided notice of the allegations. Such a statement need not be in any specific form or in writing.]*~~

2. An internal administrative investigation that could lead to disciplinary action against an employee pursuant to NRS 284.385 and any determination made as a result of such an investigation must be completed and the employee notified of any disciplinary action within 90 days after the employee is provided notice of the allegations pursuant to paragraph (a) of subsection 1. If the appointing authority cannot complete the investigation and make a determination within 90 days after the employee is provided notice of the allegations pursuant to paragraph (a) of subsection 1, the appointing authority may request an extension of not more than 60 days from the Director upon showing good cause for the delay. No further extension may be granted unless approved by the Governor.

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

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 191.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 314.

AN ACT relating to taxation; revising provisions governing the partial abatement of certain taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person who intends to locate or expand a business in Nevada may apply to the Commission on Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361 (property tax), 363B (business tax) or 374 (local school support tax) of NRS. (NRS 360.750, 361.0687, 363B.120, 374.357). This bill provides that a business which makes a capital investment of at least $500,000 in a ~~[research]~~ program at the University of Nevada, Reno, ~~[or]~~ the University of Nevada, Las Vegas, **or the Desert Research Institute** for the support of research **, development or training** related to the field of endeavor of the business and which meets certain other requirements is eligible to apply for a partial abatement of property ~~[or]~~ **taxes,** business taxes **~~[, or both.]~~ and governmental services taxes. In addition, this bill provides that a business which makes a capital investment of at least $250,000 in the Nevada State College or a community college within the Nevada System of Higher Education in support of college certification or research or training related to the field of endeavor of the business and which meets certain other requirements is also eligible to apply for a partial abatement of property taxes, business taxes and governmental services taxes.**

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

Section 1. The Legislature hereby finds that each exemption provided by this act from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail:

1. Will achieve a bona fide social or economic purpose and that the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and

2. Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.

Sec. 2. **Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development pursuant to this section for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 371 of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement pursuant to this section if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which must:

(1) Comply with the requirements of NRS 360.755;

(2) Require the business to submit to the Department the reports required by paragraph (c) of subsection 1 of NRS 218D.355;

(3) State the agreed terms of the partial abatement, which must comply with the requirements of subsection 4;

(4) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(5) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) The business does not receive:

(1) Any funding from a governmental entity, other than any private activity bonds as defined in 26 U.S.C. § 141; or

(2) Any real or personal property from a governmental entity at no cost or at a reduced cost.

(e) The business meets the following requirements:

(1) The business makes a capital investment of at least $500,000 in a program of the University of Nevada, Reno, the University of Nevada, Las Vegas, or the Desert Research Institute to be used in support of research, development or training related to the field of endeavor of the business.

(2) The business will employ 15 or more full-time employees for the duration of the abatement.

(3) The business will employ two or more graduate students from the program in which the capital investment is made on a part-time basis for the duration of the abatement.

(4) The average hourly wage that will be paid by the business to its employees in this State is at least 125 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(5) The business submits with its application for a partial abatement:

(I) A letter of support from the institution at which the program operates, which is signed by the chief administrative officer of the institution and the director or chair of the program or the appropriate department, and which includes, without limitation, a summary of the financial and other resources the business will provide to the program and an agreement that the institution will provide to the Commission periodic reports, at such times and containing such information as the Commission may require, regarding the use of those resources; and

(II) A letter of support which is signed by the chair of the board of directors of the regional economic development authority within whose jurisdiction the institution is located and which includes, without limitation, a summary of the role the business will play in diversifying the economy and, if applicable, in achieving the broader goals of the regional economic development authority for economic development and diversification.

(f) In lieu of meeting the requirements of paragraph (e), the business meets the following requirements:

(1) The business makes a capital investment of at least $250,000 in the Nevada State College or a community college within the Nevada System of Higher Education to be used in support of college certification or in support of research or training related to the field of endeavor of the business.

(2) The business will employ 15 or more full-time employees for the duration of the abatement.

(3) The business will employ two or more students from the college in which the capital investment is made on a part-time basis for the duration of the abatement.

(4) The average hourly wage that will be paid by the business to its employees in this State is at least 125 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(5) The business submits with its application for a partial abatement:

(I) A letter of support from the college in which the capital investment is made, which is signed by the chief administrative officer of

the college and which includes, without limitation, a summary of the financial and other resources the business will provide to the college and an agreement that the college will provide to the Commission periodic reports, at such times and containing such information as the Commission may require, regarding the use of those resources; and

(II) A letter of support which is signed by the chair of the board of directors of the regional economic development authority within whose jurisdiction the college is located and which includes, without limitation, a summary of the role the business will play in diversifying the economy and, if applicable, in achieving the broader goals of the regional economic development authority for economic development and diversification.

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement pursuant to this section unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement pursuant to this section by a business that does not meet the requirements set forth in paragraph (e) or (f) of subsection 2; or

(2) Add additional requirements that a business must meet to qualify for a partial abatement pursuant to this section.

4. If the Commission on Economic Development approves an application for a partial abatement pursuant to this section:

(a) The total amount of the abatement must not exceed 50 percent of the amount of the capital investment by the business;

(b) The duration of the abatement must be for 5 years;

(c) Any abatement of:

(1) The property taxes imposed on a business pursuant to chapter 361 of NRS must not exceed 50 percent of the taxes on personal property payable by the business each year;

(2) The tax imposed on a business pursuant to chapter 363B of NRS must not exceed 50 percent of the amount of the tax otherwise due from the business pursuant to NRS 363B.110 during each year; and

(3) The governmental services tax imposed on a business pursuant to chapter 371 of NRS must not exceed 50 percent of the amount of the tax otherwise due from the business pursuant to that chapter during each year; and

(d) The abatement applies only to the business for which the abatement was approved pursuant to this section and the property used in connection with that business.

5. If the Commission on Economic Development approves an application for a partial abatement pursuant to this section, the

Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission;

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business will be located; and

(d) If the partial abatement is from the governmental services tax imposed pursuant to chapter 371 of NRS, the Department of Motor Vehicles.

6. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

7. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases to meet the requirements set forth in subsection 2 or ceases operation before the time specified in the agreement described in paragraph (b) of subsection 2, the business shall:

(a) If the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, repay to the county treasurer;

(b) If the partial abatement was from the tax imposed on a business pursuant to chapter 363B of NRS, repay to the Department; and

(c) If the partial abatement was from the governmental services tax imposed pursuant to chapter 371 of NRS, repay to the Department of Motor Vehicles,

↪ the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

8. A county treasurer:

(a) Shall deposit any money that he or she receives pursuant to subsection 7 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

9. The Commission on Economic Development:

(a) Shall adopt regulations relating to the minimum level of benefits that a business must provide to its employees to qualify for a partial abatement pursuant to this section; and

(b) May adopt such other regulations as the Commission determines to be necessary to carry out the provisions of this section.

10. The Nevada Tax Commission:

(a) Shall adopt regulations regarding any security that a business is required to post to qualify for a partial abatement pursuant to this section; and

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section.

11. An applicant for a partial abatement pursuant to this section who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 3. **NRS 360.225 is hereby amended to read as follows:**

360.225 1. During the course of an investigation undertaken pursuant to NRS 360.130 of a person claiming:

(a) A partial abatement of property taxes pursuant to NRS 361.0687;

(b) An exemption from taxes pursuant to NRS 363B.120;

(c) A deferral of the payment of taxes on the sale of capital goods pursuant to NRS 372.397 or 374.402; ~~[or]~~

(d) An abatement of taxes on the gross receipts from the sale, storage, use or other consumption of eligible machinery or equipment pursuant to NRS 374.357 ~~[.]~~ ***; or***

(e) A partial abatement of taxes pursuant to section 2 of this act,

➥ the Department shall investigate whether the person meets the eligibility requirements for the abatement, partial abatement, exemption or deferral that the person is claiming.

2. If the Department finds that the person does not meet the eligibility requirements for the abatement, exemption or deferral which the person is claiming, the Department shall report its findings to the Commission on Economic Development and take any other necessary actions.

~~[Sec. 2.]~~ ***Sec. 4.*** NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development ***pursuant to this section*** for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement ***pursuant to this section*** if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which must:

(1) Comply with the requirements of NRS 360.755;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4, continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 8.

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 8.

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 8.

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), ~~*[, (f) or (h),]*~~ if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection 8.

~~[~~ ~~*(h) In lieu of meeting the requirements of paragraph (d), (e), (f) or (g), the business meets the following requirements:*~~

~~*(1) The business makes a capital investment of at least $500,000 in a research program at the University of Nevada, Reno, or the University of Nevada, Las Vegas, to be used in support of research related to the field of endeavor of the business.*~~

~~*(2) The business will employ 15 or more full-time employees for the duration of the abatement.*~~

~~*(3) The business will employ two or more graduate students from the university research program on a part-time basis for the duration of the abatement.*~~

~~*(4) The average hourly wage that will be paid by the business to its employees in this State is at least 125 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:*~~

~~*(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and*~~

~~*(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 8.*~~

~~*(5) The business does not receive:*~~

~~*(I) Any funding from a governmental entity, other than any private activity bonds as defined in 26 U.S.C. § 141; or*~~

~~*(II) Any real or personal property from a governmental entity at no cost or at a reduced cost.*~~

~~*(6) The business will submit to the Department the reports required by paragraph (c) of subsection 1 of NRS 218D.355.*~~

~~*(7) The business submits with its application for a partial abatement:*~~

~~*(I) A letter of support from the University at which the research program operates, which is signed by the President of the University and the director or chair of the research program or the appropriate department and which includes, without limitation, a summary of the financial and other resources the business will provide to the research program; and*~~

~~*(II) A letter of support which is signed by the chair of the board of directors of the regional economic development authority within whose jurisdiction the University is located and which includes, without limitation, a summary of the role the business will play in diversifying the economy and,*~~

~~*if applicable, in achieving the broader goals of the regional economic development authority for economic development and diversification.*~~

~~➥ *Any partial abatement which is approved for a business that meets the requirements of this paragraph does not apply to any taxes imposed pursuant to chapter 374 of NRS and must not exceed a term of 5 years.]*~~

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement ***pursuant to this section*** unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement ***pursuant to this section*** by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) ~~*[, (g) or (h)]*~~ of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement ~~[.]~~ ***pursuant to this section.***

4. If the Commission on Economic Development approves an application for a partial abatement ~~[.]~~ ***pursuant to this section,*** the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.

5. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

6. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

➥ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each

month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

7. A county treasurer:

(a) Shall deposit any money that he or she receives pursuant to subsection 6 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

8. The Commission on Economic Development:

(a) Shall adopt regulations relating to the minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement ~~[.]~~ ***pursuant to this section;*** and

(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

9. The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

10. An applicant for ~~[an]~~ ***a partial*** abatement ***pursuant to this section*** who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 5. **NRS 360.755 is hereby amended to read as follows:**

360.755 1. If the Commission on Economic Development approves an application by a business for a partial abatement pursuant to NRS 360.750 ~~[.]~~ ***or section 2 of this act,*** the agreement with the Commission must provide that the business:

(a) Agrees to allow the Department to conduct audits of the business to determine whether the business is in compliance with the requirements for the partial abatement; and

(b) Consents to the disclosure of the audit reports in the manner set forth in this section.

2. If the Department conducts an audit of the business to determine whether the business is in compliance with the requirements for the partial abatement, the Department shall, upon request, provide the audit report to the Commission on Economic Development.

3. Until the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit, the information contained in the audit report provided to the Commission on Economic Development:

(a) Is confidential proprietary information of the business;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.

4. After the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit:

(a) The audit report provided to the Commission on Economic Development is a public record; and

(b) Upon request by any person, the Executive Director of the Commission on Economic Development shall disclose the audit report to the person who made the request, except for any information in the audit report that is protected from disclosure pursuant to subsection 5.

5. Before the Executive Director of the Commission on Economic Development discloses the audit report to the public, the business may submit a request to the Executive Director to protect from disclosure any information in the audit report which, under generally accepted business practices, would be considered a trade secret or other confidential proprietary information of the business. After consulting with the business, the Executive Director shall determine whether to protect the information from disclosure. The decision of the Executive Director is final and is not subject to judicial review. If the Executive Director determines to protect the information from disclosure, the protected information:

(a) Is confidential proprietary information of the business;

(b) Is not a public record;

(c) Must be redacted by the Executive Director from any audit report that is disclosed to the public; and

(d) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.

Sec. 6. **NRS 231.0685 is hereby amended to read as follows:**

231.0685 The Commission on Economic Development shall, on or before January 15 of each odd-numbered year, prepare and submit to the Director of the Legislative Counsel Bureau for transmission to the Legislature a report concerning the abatements from taxation that the Commission approved pursuant to NRS 274.310, 274.320, 274.330 or 360.750 **[.]** ***or section 2 of this act.*** The report must set forth, for each abatement from taxation that the Commission approved in the 2-year period immediately preceding the submission of the report:

1. The dollar amount of the abatement;

2. The location of the business for which the abatement was approved;

3. If applicable, the number of employees that the business for which the abatement was approved employs or will employ;

4. Whether the business for which the abatement was approved is a new business or an existing business; and

5. Any other information that the Commission determines to be useful.

~~[Sec. 3.]~~ ***Sec. 7.*** ~~[1. The amendatory provisions of this act apply only to an abatement from taxation applied for on or after July 1, 2011.~~

~~2.]~~ Notwithstanding the ~~[amendatory]~~ provisions of section 2 of this act, no person is entitled to any partial abatement of taxes pursuant to those ~~[amendatory]~~ provisions after June 30, 2021.

~~[Sec. 4.]~~ ***Sec. 8.*** **1.** This act becomes effective on July 1, 2011**. ~~[~~**, ~~and expires]~~

2. Sections 2, 3, 5 and 6 of this act expire by limitation on June 30, 2021.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 202.

Bill read second time.

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

Amendment No. 438.

ATKINSON, CONKLIN, Kirner, Hardy**, ~~[AND]~~** Hickey **; AND KIRKPATRICK**

SUMMARY—~~[Establishes the Fund for Economic Development to provide assistance in paying for electricity costs incurred by]~~ **Provides for the partial abatement of certain property taxes for** certain new manufacturing businesses in this State. (BDR 58-652)

AN ACT relating to energy ~~[assistance; establishing the Fund for Economic Development; requiring certain retail customers of public utilities to pay an economic development energy charge in an amount determined by the Public Utilities Commission of Nevada and approved by the Interim Finance Committee; requiring that money collected from the economic development energy charge be remitted to the Public Utilities Commission and deposited in the State Treasury for credit to the Fund; requiring the Commission on Economic Development to administer the Fund and to use the money in the Fund to establish a program to encourage the development of new manufacturing businesses in this State by assisting such businesses in paying for certain electricity costs incurred by those businesses; requiring the Commission on Economic Development to establish an annual plan to carry out the program and to make certain reports concerning the program;]~~ **; providing for the partial abatement of certain property taxes for certain new manufacturing businesses in this State; providing that eligibility for the partial abatement of certain property taxes is limited to certain new manufacturing businesses that renovate an existing building or other**

structure; revising provisions governing eligibility for a partial abatement of taxes for a building or other structure that is determined to meet the equivalent of the silver level or higher pursuant to the Green Building Rating System; requiring the ~~[Public Utilities Commission and the Commission on Economic Development]~~ **Director of the Office of Energy** to adopt certain regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law provides the Commission on Economic Development with certain powers and duties relating to economic development in this State, including, without limitation, promoting and developing Nevada business, industry and commerce and developing the State Plan for Industrial Development and Diversification. (NRS 231.064, 231.067)~~

~~Section 11 of this bill requires certain retail customers who purchase electricity for consumption in this State to pay an economic development energy charge on each kilowatt hour of electricity purchased in an amount established by the Public Utilities Commission of Nevada and approved by the Interim Finance Committee. Section 13 of this bill requires the Public Utilities Commission, after deducting an administrative fee, to deposit the money collected from the economic development energy charge in the State Treasury for credit to the Fund for Economic Development created by section 14 of this bill. Section 15]~~ **Section 18** of this bill requires the ~~[Commission on Economic Development to use the money distributed from the Fund]~~ **Director of the Office of Energy** to establish ~~[a program to encourage the development of]~~ **regulations for granting a partial abatement of certain property taxes for** new manufacturing businesses in this State ~~[by providing assistance to eligible manufacturers in paying for certain electricity costs. Section 15]~~ **which renovate an existing building or other structure which meets certain energy efficiency standards. Section 18** sets forth the criteria for eligibility for ~~[assistance from the Fund,]~~ **the partial abatement of such taxes,** including, without limitation, that the applicant: (1) be a new manufacturing business in this State; ~~[and]~~ (2) employ at least 25 full-time employees at the new manufacturing business for the entire period during which the applicant will receive ~~[assistance from the Fund. Section 15 requires the Commission on Economic Development to enter into an agreement with each eligible applicant and specifies certain provisions which the agreement must contain. Section 15 provides that the amount of assistance an applicant may receive from the Fund must not exceed 100 percent of the cost incurred by the applicant's new manufacturing business for electricity during its first year of operation in this State. Section 15 further requires an applicant who receives assistance from the Fund to repay to the Fund any such assistance received if at any time the Commission on Economic Development determines that the applicant has violated a provision of the agreement entered into between the Commission and the applicant. Section 16 of this bill requires the Commission on Economic~~

~~Development to establish an annual plan to implement the program required by section 15 and to provide an annual report concerning the program to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission and the Interim Finance Committee.~~

~~Section 18 of this bill provides that the provisions of this bill governing the economic development energy charge and the Fund expire on June 30, 2015. Section 17 of this bill provides that if any money remains uncommitted and unencumbered in the Fund on June 30, 2015, the Public Utilities Commission is required to establish a plan for the distribution of the money and present the plan to the Interim Finance Committee for approval.~~**] the partial abatement; and (3) pay an average hourly wage that is at least 100 percent of the average statewide hourly wage or average countywide hourly wage, whichever is less, excluding management and administrative employees. Section 18 prescribes the maximum amount of the partial abatement, provides that the partial abatement is not available for any taxes imposed for public education and limits the partial abatement to not more than 1 year in duration. This new program is patterned after existing provisions which provide for a similar partial abatement of certain taxes for buildings which meet certain standards under the Green Building Rating System. (NRS 701A.100, 701A.110) Section 20 of this bill provides that an applicant for a partial abatement of taxes under the existing program is not eligible for a partial abatement of taxes for the renovation of an existing building or other structure.**

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. **Chapter 701A of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Except as otherwise provided in this section, the Director of the Office of Energy shall grant a partial abatement from the portion of taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on an existing building or other structure which is renovated for use by a manufacturer if:

(a) The building or other structure is determined after the renovation to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100.

(b) The applicant:

(1) Is a manufacturer who intends to locate a new manufacturing business in this State;

(2) Employs at least 25 full-time employees at the new manufacturing business in this State during the entire period in which the applicant will receive the tax abatement; and

(3) The average hourly wage that will be paid by the manufacturer to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(c) No funding is provided by any governmental entity in this State for the acquisition, design, construction or renovation of the building or other structure or for the acquisition of any land therefore. For the purpose of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(d) The manufacturer:

(1) Submits an application for the abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100. The Director may, for good cause shown, extend the period for providing such proof.

(3) Files a copy of each application and amended application submitted to the Director pursuant to subparagraph (1) with the:

(I) Chief of the Budget Division of the Department of Administration;

(II) Department of Taxation;

(III) County assessor;

(IV) County treasurer;

(V) Commission on Economic Development;

(VI) Board of county commissioners; and

(VII) City manager and city council, if any.

2. As soon as practicable after the Director receives an application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

(a) Department of Taxation;

(b) County assessor;

(c) County treasurer; and

(d) Commission on Economic Development.

3. As soon as practicable after receiving a copy of:

(a) An application pursuant to subparagraph (3) of paragraph (d) of subsection 1:

(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.

(b) A certificate of eligibility pursuant to subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.

4. The partial abatement:

(a) Must be for a duration not to exceed 1 year, and in an annual amount that equals, for a building or other structure that meets the equivalent of:

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public

education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

5. The Director shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (d) of subsection 1,

↪ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling, even if the building or other structure is used for more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Manufacturer" means a person engaged primarily in manufacturing or processing which changes raw or unfinished materials into another form or creates another product.

(d) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.

Sec. 19. NRS 701A.100 is hereby amended to read as follows:

701A.100 1. The Director of the Office of Energy shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to NRS 701A.110 ~~[.]~~ ***and section 18 of this act.***

2. The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System, except that the standards adopted by the Director:

(a) Except as otherwise provided in paragraphs (b) and (c), must not include:

(1) Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System for at least 2 years; or

(2) Standards for homes;

(b) Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and

(c) Must require a building or other structure to obtain:

(1) At least 3 points of credit for energy conservation to meet the equivalent of the silver level;

(2) At least 5 points of credit for energy conservation to meet the equivalent of the gold level; and

(3) At least 8 points of credit for energy conservation to meet the equivalent of the platinum level.

3. As used in this section, "home" means a building or other structure for which the principal use is as a residential dwelling for not more than four families.

Sec. 20. NRS 701A.110 is hereby amended to read as follows:

701A.110 1. Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100, if:

(a) No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(b) The owner of the property:

(1) Submits an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100. The Director may, for good cause shown, extend the period for providing such proof.

(3) Files a copy of each application and amended application submitted to the Director pursuant to subparagraph (1) with the:

(I) Chief of the Budget Division of the Department of Administration;

(II) Department of Taxation;

(III) County assessor;

(IV) County treasurer;

(V) Commission on Economic Development;

(VI) Board of county commissioners; and

(VII) City manager and city council, if any.

2. As soon as practicable after the Director receives the application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

(a) Department of Taxation;

(b) County assessor;

(c) County treasurer; and

(d) Commission on Economic Development.

3. As soon as practicable after receiving a copy of:

(a) An application pursuant to subparagraph (3) of paragraph (b) of subsection 1:

(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.

(b) A certificate of eligibility pursuant to subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.

4. The partial abatement:

(a) Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

(d) Must not be for an existing building or other structure that is renovated.

5. The Director shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,

➥ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.

Sec. 21. **An application for a partial abatement of taxes requested pursuant to NRS 701A.110 submitted on or after the effective date of this section must not be granted if the application is for a partial abatement of taxes for an existing building or other structure which is being renovated.**

Sec. 22. **The Director of the Office of Energy shall, on or before October 1, 2011, adopt regulations to carry out the amendatory provisions of sections 18 and 20 of this act.**

~~[Sec. 18.]~~ *Sec. 23.* 1. This **section and sections 20, 21 and 22 of this act become effective upon passage and approval.**

2. Sections 1 to 19, inclusive, of this act ~~[becomes]~~ **become** effective:

(a) Upon passage and approval for the purpose of adopting regulations and carrying out any other preparatory administrative tasks necessary to implement the provisions of this act; and

(b) On October 1, 2011, for all other purposes.

~~[2. Sections 1 to 16, inclusive, of this act expire by limitation on June 30, 2015.]~~

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 219.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 351.

SUMMARY—Provides that ~~[certain]~~ unredeemed **slot machine** wagering ~~[instruments]~~ **vouchers** escheat to the State. (BDR 10-811)

AN ACT relating to unclaimed property; providing that ~~[certain]~~ unredeemed **slot machine** wagering ~~[instruments]~~ **vouchers** escheat to the State; requiring the Nevada Gaming Commission to adopt regulations relating to unredeemed **slot machine** wagering ~~[instruments;]~~ **vouchers;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes the process of the disposition of unclaimed personal property. (Chapter 120A of NRS) Existing law also provides that such provisions of law do not apply to unredeemed gaming chips or tokens. (NRS 120A.135) **Section ~~[3]~~ 1.3** of this bill specifies that with regard to unclaimed property, a gaming chip or token does not include a **slot machine** wagering ~~[instrument.]~~ **voucher. Section 1.3 defines "slot machine wagering voucher" as a printed wagering instrument that has a fixed dollar wagering value that can only be used to acquire an equivalent value of cashable credits or cash. Section ~~[4]~~ 1.7** of this bill provides that ~~[a]~~ **unless the Nevada Gaming Commission specifies a shorter period of time in which a slot machine wagering voucher must be redeemed, upon the expiration date printed on a slot machine wagering voucher or 30 days after the slot machine wagering voucher is issued, whichever period is less, any value remaining on an unredeemed slot machine** wagering ~~[instrument]~~ **voucher** is presumed to be abandoned ~~[if it is unclaimed by the apparent owner within 1 year after the wager is placed, unless the Nevada Gaming Commission specifies a different period in which the wagering instrument must be redeemed.]~~ **and subject to the provisions of law regarding the disposition of unclaimed personal property. Section 1.7 also provides that all slot machine wagering vouchers that are presumed abandoned must be reported to and escheat to the State on a quarterly basis, and that the State of Nevada may retain 75 percent of the value of any such slot machine wagering voucher and the gaming establishment which issued the slot machine wagering voucher may retain 25 percent of the value of the slot machine wagering voucher.**

Section 6 of this bill requires the Commission to adopt regulations that prescribe the procedures which gaming licensees must follow regarding the retention and tracking of **slot machine** wagering ~~[instruments]~~ **vouchers** and the payment of the **respective percentage of the** value of **such** unredeemed **slot machine** wagering ~~[instruments]~~ **vouchers** to this State **~~[.]~~ and to gaming establishments.**

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

Section 1. Chapter 120A of NRS is hereby amended by adding thereto ~~[a new section to read as follows:~~

~~"*Wagering instrument" has the meaning ascribed to it in NRS 463.01967.]~~ **the provisions set forth as sections 1.3 and 1.7 of this act.**

Sec. 1.3. ***"Slot machine wagering voucher" means a printed wagering instrument that has a fixed dollar wagering value that can only be used to acquire an equivalent value of cashable credits or cash. As used in this section, "wagering instrument" has the meaning ascribed to it in NRS 463.01967.***

Sec. 1.7. ***1. Unless the Nevada Gaming Commission specifies by regulation a shorter period of time in which a slot machine wagering voucher must be redeemed, upon the expiration date printed on a slot machine wagering voucher issued in this State or 30 days after a wager is placed, whichever period is less, any value remaining on an unredeemed slot machine wagering voucher is presumed abandoned and subject to the provisions of this chapter.***

2. If a slot machine wagering voucher is issued in this State and the gaming establishment which issued the slot machine wagering voucher does not obtain and maintain in its records the name and address of the owner of the slot machine wagering voucher, the address of the owner of the slot machine wagering voucher shall be deemed to be the address of the Office of the State Treasurer in Carson City.

3. All slot machine wagering vouchers presumed abandoned under this section must be reported to and escheat to this State on a quarterly basis.

4. This State may retain 75 percent of the value of any slot machine wagering voucher presumed abandoned under this section, and the gaming establishment which issued the slot machine wagering voucher may retain 25 percent of the value of the slot machine wagering voucher.

Sec. 2. NRS 120A.020 is hereby amended to read as follows:

120A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 120A.025 to 120A.120, inclusive, ***and section*** ~~*[1]*~~ ***1.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 120A.135 is hereby amended to read as follows:

120A.135 1. The provisions of this chapter do not apply to gaming chips or tokens which are not redeemed at an establishment.

2. As used in this section:

(a) "Establishment" has the meaning ascribed to it in NRS 463.0148.

(b) "Gaming chip or token" means any object which may be redeemed at an establishment for cash or any other representative of value ~~[.]~~ ~~*[,]*~~ ***other than a slot machine wagering*** ~~*[instrument.]*~~ ***voucher.***

Sec. 4. ~~[~~NRS 120A.500 is hereby amended to read as follows:

~~120A.500 1. Except as otherwise provided in subsection 6, property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:~~

~~(a) A traveler's check, 15 years after issuance;~~

~~(b) A money order, 7 years after issuance;~~

~~(c) Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the~~

~~holder discontinued mailings, notifications or communications to the apparent owner;~~

~~(d) Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;~~

~~(e) A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;~~

~~(f) Except as otherwise provided in NRS 120A.520, any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;~~

~~(g) Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;~~

~~(h) Any property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;~~

~~(i) Any property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;~~

~~(j) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;~~

~~(k) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;~~

~~(l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;~~

~~(m) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;~~ ~~[~~and~~]~~

~~(n) *Any wagering instrument, 1 year after the wager is placed, unless the Nevada Gaming Commission specifies by regulation a different period in which the wagering instrument must be redeemed; and*~~

~~*(c)* All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.~~

~~2. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.~~

~~3. Property is unclaimed if, for the applicable period set forth in subsection 1, the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.~~

~~4. An indication of an owner's interest in property includes:~~

~~(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;~~

~~(b) Owner directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;~~

~~(c) The making of a deposit to or withdrawal from a bank account; and~~

~~(d) The payment of a premium with respect to a property interest in an insurance policy, but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.~~

~~5. Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.~~

~~6. The following property clearly designated as such must not be presumed abandoned because of inactivity or failure to make a demand:~~

~~(a) An account or asset managed through a guardianship;~~

~~(b) An account blocked at the direction of a court;~~

~~(c) A trust account established to address a special need;~~

~~(d) A qualified income trust account;~~

~~(e) A trust account established for tuition purposes;~~

~~(f) A trust account established on behalf of a client; and~~

~~(g) An account or fund established to meet the costs of burial.~~**] (Deleted by amendment.)**

Sec. 5. ~~[NRS 120A.530 is hereby amended to read as follows:~~

~~120A.530 Except as otherwise provided in this chapter or by other statute of this State, property that is presumed abandoned, whether located in this or another state, is subject to the custody of this State if:~~

~~1. The last known address of the apparent owner, as shown on the records of the holder, is in this State;~~

~~2. The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this State;~~

~~3. The records of the holder do not reflect the last known address of the apparent owner and it is established that:~~

~~(a) The last known address of the person entitled to the property is in this State; or~~

~~(b) The holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;~~

~~4. The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide for the escheat or custodial taking of the property and the holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State;~~

~~5. The last known address of the apparent owner, as shown on the records of the holder, is in a foreign country and the holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State;~~

~~6. The transaction out of which the property arose occurred in this State, the holder is domiciled in a state that does not provide for the escheat or custodial taking of the property and the last known address of the apparent owner or other person entitled to the property is unknown or is in a state that does not provide for the escheat or custodial taking of the property;~~ **[**~~or~~**]**

~~7. The property is a traveler's check or money order purchased in this State or the issuer of the traveler's check or money order has its principal place of business in this State and the issuer's records show that the instrument was purchased in a state that does not provide for the escheat or custodial taking of the property or do not show the state in which the instrument was purchased~~ **[**~~.~~**]** ~~**; or**~~

~~***8. The property is a wagering instrument that was issued in this State.]***~~ **(Deleted by amendment.)**

Sec. 6. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

The Commission shall adopt regulations prescribing procedures which licensees must follow for the retention and tracking of slot machine wagering ~~*[instruments]*~~ ***vouchers and for the payment of the respective percentage of the value of unredeemed slot machine wagering***

~~*[instruments]*~~ ***vouchers to this State and to such licensees as required by chapter 120A of NRS regarding the disposition of unclaimed property.***

Sec. 6.5. **The Nevada Gaming Commission shall adopt the regulations required to be adopted pursuant to the amendatory provisions of this act on or before October 1, 2011.**

Sec. 7. This act becomes effective ~~[on July 1, 2011.]~~ **upon passage and approval.**

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 245.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 312.

AN ACT relating to taxation; authorizing a veteran to transfer to his or her spouse the exemption from the governmental services tax to which the veteran would otherwise be entitled; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a veteran is entitled, with respect to the registration of a vehicle and to the extent of $2,000 determined valuation, to an exemption from the governmental services tax that would otherwise be due and payable on the vehicle. (NRS 371.103) **If a veteran has incurred a permanent service-connected disability, existing law authorizes such an exemption in the amount of $20,000 for a veteran with a total disability, $15,000 for a veteran with a disability of 80 to 99 percent and $10,000 for a veteran with a disability of 60 to 79 percent. (NRS 371.104)** This bill allows such a person, by filing an affidavit with the Department of Motor Vehicles, to transfer ~~[that]~~ **the** tax exemption to his or her spouse. If such a transfer is made: (1) the spouse is entitled to the exemption in the same manner as the veteran would have been entitled to the exemption; (2) the transferred exemption may not be claimed by the veteran while the transfer is in force; (3) the veteran may, by affidavit, revoke the transfer of the exemption; and (4) the transferred exemption terminates upon the earlier of **the termination of the marriage,** the veteran's death or the revocation of the transfer.

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

Section 1. NRS 371.103 is hereby amended to read as follows:

371.103 1. Vehicles, to the extent of $2,000 determined valuation, registered by any actual bona fide resident of the State of Nevada who:

(a) Has served a minimum of 90 days on active duty, who was assigned to active duty at some time between April 21, 1898, and June 15, 1903, or between April 6, 1917, and November 11, 1918, or between December 7,

1941, and December 31, 1946, or between June 25, 1950, and May 7, 1975, or between September 26, 1982, and December 1, 1987, or between October 23, 1983, and November 21, 1983, or between December 20, 1989, and January 31, 1990, or between August 2, 1990, and April 11, 1991, or between December 5, 1992, and March 31, 1994, or between November 20, 1995, and December 20, 1996;

(b) Has served a minimum of 90 continuous days on active duty none of which was for training purposes, who was assigned to active duty at some time between January 1, 1961, and May 7, 1975;

(c) Has served on active duty in connection with carrying out the authorization granted to the President of the United States in Public Law 102-1; or

(d) Has served on active duty in connection with a campaign or expedition for service in which a medal has been authorized by the Government of the United States, regardless of the number of days served on active duty,

➥ and who received, upon severance from service, an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States, or who, having so served, is still serving in the Armed Forces of the United States, is exempt from taxation.

2. ***In lieu of claiming the exemption from taxation set forth in subsection 1 in his or her name, a veteran may transfer the exemption to his or her current spouse. To transfer the exemption, the veteran must file an affidavit of transfer with the Department in the county where the exemption would otherwise have been claimed. The affidavit of transfer must be made before the county assessor or a notary public. If a veteran makes such a transfer:***

(a) The spouse of the veteran is entitled to the exemption in the same manner as if the spouse were the veteran;

(b) The veteran is not entitled to the exemption for the duration of the transfer;

(c) The transfer expires upon the earlier of:

(1) The termination of the marriage;

(2) The death of the veteran; or

~~[(2)]~~ ***(3) The revocation of the transfer by the veteran as described in paragraph (d); and***

(d) The veteran may, at any time, revoke the transfer of the exemption by filing with the Department in the county where the exemption is claimed an affidavit made before the county assessor or a notary public.

3. For the purpose of this section, the first $2,000 determined valuation of vehicles in which ~~[such]~~ a person ***described in subsection 1 or 2*** has any interest shall be deemed to belong to that person.

~~[3. A]~~

4. Except as otherwise provided in subsection 5, a person claiming the exemption shall file annually with the Department in the county where the exemption is claimed an affidavit declaring that he or she is an actual bona

fide resident of the State of Nevada who meets all the other requirements of subsection 1 ***or 2, as applicable,*** and that the exemption is claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit ~~[,]~~ ***of exemption and after the transfer of the exemption, if any, pursuant to subsection 2,*** the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person ***who claimed the exemption*** each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

~~[4.]~~ ***5.*** Persons in actual military service are exempt during the period of such service from filing annual affidavits of exemption and the Department shall grant exemptions to those persons on the basis of the original affidavits filed. In the case of any person who has entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed in his or her behalf during the period of such service by any person having knowledge of the facts.

~~[5.]~~ ***6.*** Before allowing any veteran's exemption pursuant to the provisions of this chapter, the Department shall require proof of status of the veteran ~~[,]~~ ***or, if a transfer has been made pursuant to subsection 2, proof of status of the veteran to whom the person claiming the exemption is married,*** and for that purpose shall require production of an honorable discharge or certificate of satisfactory service or a certified copy thereof, or such other proof of status as may be necessary.

~~[6.]~~ ***7.*** If any person files a false affidavit or produces false proof to the Department, and as a result of the false affidavit or false proof a tax exemption is allowed to a person not entitled to the exemption, the person is guilty of a gross misdemeanor.

~~[7.]~~ ***8.*** Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsections 1 and ~~[2]~~ ***3*** must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

Sec. 2. **NRS 371.104 is hereby amended to read as follows:**

371.104 1. A bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or his or her surviving spouse, is entitled to a veteran's exemption from the payment of governmental services taxes on vehicles of the following determined valuations:

(a) If he or she has a disability of 100 percent, the first $20,000 of determined valuation.

(b) If he or she has a disability of 80 to 99 percent, inclusive, the first $15,000 of determined valuation.

(c) If he or she has a disability of 60 to 79 percent, inclusive, the first $10,000 of determined valuation.

2. ***In lieu of claiming the exemption from taxation set forth in subsection 1 in his or her name, a veteran may transfer the exemption to his or her current spouse. To transfer the exemption, the veteran must file an affidavit of transfer with the Department in the county where the exemption would otherwise have been claimed. The affidavit of transfer must be made before the county assessor or a notary public. If a veteran makes such a transfer:***

(a) The spouse of the veteran is entitled to the exemption in the same manner as if the spouse were the veteran;

(b) The veteran is not entitled to the exemption for the duration of the transfer;

(c) The transfer expires upon the earlier of:

(1) The termination of the marriage;

(2) The death of the veteran; or

(3) The revocation of the transfer by the veteran as described in paragraph (d); and

(d) The veteran may, at any time, revoke the transfer of the exemption by filing with the Department in the county where the exemption is claimed an affidavit made before the county assessor or a notary public.

3. For the purpose of this section, the first $20,000 of determined valuation of vehicles in which ~~[an applicant]~~ ***a person described in subsection 1 or 2*** has any interest shall be deemed to belong entirely to that person.

~~[3.]~~ ***4.*** A person claiming the exemption shall file annually with the Department in the county where the exemption is claimed an affidavit declaring that he or she is a bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 ***or 2, as applicable,*** and that the exemption is claimed in no other county within this State. After the filing of the original affidavit ~~[,]~~ ***of exemption and after the transfer of the exemption, if any, pursuant to subsection 2,*** the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person ***who claimed the exemption*** each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

~~[4.]~~ ***5.*** Before allowing any exemption pursuant to the provisions of this section, the Department shall require proof of the ~~[applicant's]~~ ***veteran's*** status, and for that purpose shall require production of:

(a) A certificate from the Department of Veterans Affairs that the veteran has incurred a permanent service-connected disability, which shows the percentage of that disability; and

(b) Any one of the following:

(1) An honorable discharge;

(2) A certificate of satisfactory service; or

(3) A certified copy of either of these documents.

~~[5.]~~ ***6.*** A surviving spouse claiming an exemption pursuant to this section must file with the Department in the county where the exemption is claimed an affidavit declaring that:

(a) The surviving spouse was married to and living with the veteran with a disability for the 5 years preceding his or her death;

(b) The veteran with a disability was eligible for the exemption at the time of his or her death ~~[.]~~ ***or, if not for a transfer of the exemption pursuant to subsection 2, would have been eligible for the exemption at the time of his or her death;*** and

(c) The surviving spouse has not remarried.

➥ The affidavit required by this subsection is in addition to the certification required pursuant to subsections ~~[3 and 4.]~~ ***4 and 5.*** After the filing of the original affidavit required by this subsection, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

~~[6.]~~ ***7.*** If a tax exemption is allowed under this section, the ~~[claimant is]~~ ***veteran and his or her current spouse are*** not entitled to an exemption under NRS 371.103.

~~[7.]~~ ***8.*** If any person makes a false affidavit or produces false proof to the Department, and as a result of the false affidavit or false proof the person is allowed a tax exemption to which he or she is not entitled, the person is guilty of a gross misdemeanor.

~~[8.]~~ ***9.*** Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsections 1 and ~~[2]~~ ***3*** must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

~~[Sec. 2.]~~ ***Sec. 3.*** This act becomes effective on July 1, 2011.

Assemblyman Munford moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 247.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 252.

SUMMARY— ~~[~~Revises the circumstances under which a person is exempt from obtaining a license to drive a road machine,~~]~~ **Authorizes an agricultural user to apply to the Motor Carrier Division of the Department of Motor Vehicles for the issuance of a license plate and decal to operate a** farm tractor or **motorized** implement of husbandry on a highway ~~[.]~~ **in this State under certain circumstances.** (BDR 43-300)

AN ACT relating to vehicles; ~~[~~requiring~~]~~ **authorizing an agricultural user to apply to** the **Motor Carrier Division of the** Department of Motor Vehicles ~~[~~to issue a decal exempting a person from obtaining a license~~]~~ **for the issuance of a license plate and decal** to operate a ~~[~~road machine,~~]~~ farm tractor or **motorized** implement of husbandry on a highway **in this State** under certain circumstances; requiring the ~~[~~decal~~]~~ **license plate** to be displayed on the ~~[~~road machine,~~]~~ farm tractor or **motorized** implement of husbandry in ~~[~~the~~]~~ **a certain** manner **;** ~~[~~specified by the Department;~~]~~ authorizing the Department to issue a ~~[~~new~~]~~ **replacement license plate or** decal upon the payment of a fee if a **license plate or** decal is lost or destroyed; ~~[~~revising the circumstances under which a person is exempt from obtaining a license to drive a road machine, farm tractor or implement of husbandry on a highway;~~]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, ~~[~~certain persons are exempt from obtaining a driver's license or permit to operate a vehicle on a highway in this State. This exemption includes, without limitation, any person while temporarily driving a road machine, farm tractor or implement of husbandry on a highway. (NRS 483.240) Section 7 of this bill revises the circumstances under which the person may claim such an exemption by requiring the person to ensure that: (1) a policy of liability insurance which includes a certain amount of coverage for bodily injury and property damage is in effect; (2) a decal issued by the Department of Motor Vehicles is attached to the road machine, farm tractor or implement of husbandry; and (3) during the period in which the person drives the road machine, farm tractor or implement of husbandry on the highway, an emblem for slow-moving vehicles is displayed on the road machine, farm tractor or implement of husbandry, the vehicular hazard-warning lamps for the road machine, farm tractor or implement of husbandry are displayed or any other warning device required by the Department is displayed on the road machine, farm tractor or implement of husbandry. Section 1 of this bill authorizes a person who wishes to obtain a decal exempting him or her from obtaining a license to operate a road machine, farm tractor or implement of husbandry on a highway to submit a notice of that fact to the Department. Such a notice must include a fee of $20 and evidence satisfactory to the Department that the person is the holder of a policy of liability insurance which includes a certain amount of coverage for bodily injury and property damage. Section 1 requires the decal to be displayed on the road machine, farm tractor or implement of husbandry in the

~~manner specified by the Department and~~] **every owner of a motor vehicle, trailer or semitrailer that is intended to be operated upon any highway in this State is required, before operating the motor vehicle, trailer or semitrailer, to apply to the Department of Motor Vehicles to register the motor vehicle, trailer or semitrailer. (NRS 482.205) Existing law exempts an implement of husbandry from the registration requirement if the implement of husbandry is temporarily drawn, moved or otherwise propelled upon a highway. (NRS 482.210) This bill authorizes a person who is an agricultural user and who wishes to obtain a license plate and decal to operate a farm tractor or motorized implement of husbandry on the highways of this State to submit an application to the Motor Carrier Division of the Department of Motor Vehicles. An "agricultural user" is defined to mean a person who owns or operates a farm tractor or motorized implement of husbandry for a certain type of agricultural use. This bill requires the Department to issue a license plate and decal for the farm tractor or motorized implement of husbandry as soon as practicable after the Department receives the application, applicable fee and appropriate evidence of insurance. This bill also authorizes an agricultural user to submit an application for the renewal of a license plate and decal for a farm tractor or motorized implement of husbandry. An application for renewal must include the applicable fee and appropriate evidence of insurance. Finally, this bill** authorizes the Department to issue a new **license plate or** decal **for a farm tractor or motorized implement of husbandry** if the **license plate or** decal is lost or destroyed.

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

Section 1. Chapter ~~[483]~~ **482** of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any provision of this chapter to the contrary:

1. Any ~~*[person]*~~ ***agricultural user who wishes to obtain a*** ~~*[decal exempting him or her from obtaining a]*~~ ***license plate and decal to operate a*** ~~*[road machine, farm tractor or implement of husbandry pursuant to NRS 483.240 may submit a written notice of that fact to]*~~ ***farm tractor or motorized implement of husbandry on the highways of this State may submit an application to the Motor Carrier Division of the Department.*** ~~*[The written notice must include a fee of $20]*~~ ***Each application must be made upon the appropriate form furnished by the Department. The application must include a nonrefundable fee of $10.50 and evidence satisfactory to the Department that the*** ~~*[person]*~~ ***agricultural user is the holder of a policy of liability insurance which provides at least $300,000 in coverage for bodily injury and property damage resulting from any single accident caused by the*** ~~*[person]*~~ ***agricultural user while*** ~~*[driving]*~~ ***operating the*** ~~*[road machine,]*~~ ***farm tractor or motorized implement of husbandry. As***

soon as practicable after receiving the ~~[notice,]~~ application, fee and evidence of insurance, the Department shall issue the license plate and decal to the ~~[person.]~~ agricultural user to affix to the farm tractor or motorized implement of husbandry. A decal issued pursuant to this subsection expires on December 31 of the year in which the Department issues the decal. The license plate and decal are not transferable and must be surrendered or returned to the Department within 60 days after:

(a) A transfer of ownership or interest in the farm tractor or motorized implement of husbandry occurs; or

(b) The decal expires pursuant to this subsection and the agricultural user fails to submit an application for renewal pursuant to subsection 2.

2. An application for the renewal of a license plate and decal issued pursuant to subsection 1 must be made upon the appropriate form furnished by the Department. The application for renewal must include a nonrefundable fee of $10 and evidence satisfactory to the Department that the agricultural user is the holder of a policy of liability insurance specified in subsection 1. As soon as practicable after receiving the application for renewal, fee and evidence of insurance, the Department shall issue a new decal to affix to the license plate. A decal issued pursuant to this subsection expires on December 31 of the year in which the Department issues the decal.

3. A ~~[decal]~~ license plate issued pursuant to subsection 1 must be displayed on the ~~[road machine,]~~ farm tractor or motorized implement of husbandry in ~~[the]~~ such a manner ~~[specified by the Department.]~~ that the license plate is easily visible from the rear of the farm tractor or motorized implement of husbandry. If the license plate is lost or destroyed, the Department may issue a replacement plate upon the payment of a fee of 50 cents. If the decal is lost or destroyed, the Department may, upon the payment of the fee specified in subsection ~~[1,]~~ 2, issue a ~~[new]~~ replacement decal for the ~~[road machine,]~~ farm tractor or motorized implement of husbandry.

4. As used in this section, "agricultural user" means any person who owns or operates a farm tractor or motorized implement of husbandry specified in subsection 1 for an agricultural use. As used in this subsection, "agricultural use" has the meaning ascribed to it in NRS 361A.030.

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.)**

Assemblywoman Dondero Loop moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 273.

Bill read second time.

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

Amendment No. 489.

SUMMARY—Revises provisions governing deficiencies existing after foreclosure sales. **~~[.]~~ and sales in lieu of foreclosure sales.** (BDR 3-561)

AN ACT relating to real property; revising provisions governing the amount which a person holding a junior lien on real property may recover in a civil action under certain circumstances; prohibiting certain persons holding a junior lien on certain residential property from bringing a civil action under certain circumstances; revising provisions governing the amount of a deficiency judgment after the foreclosure of a mortgage or a deed of trust; **limiting the amount of certain judgments against guarantors, sureties or other obligors of obligations secured by real property under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee's sale if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust. **Existing law requires a judgment creditor or beneficiary of a deed of trust to bring an action for such a deficiency judgment within 6 months after the foreclosure sale or trustee's sale.** For an obligation secured by a mortgage or deed of trust on or after October 1, 2009, a court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if: (1) the creditor or beneficiary is a financial institution; (2) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (3) the debtor or grantor used the loan to purchase the property; (4) the debtor or grantor occupied the property continuously after obtaining the loan; and (5) the debtor or grantor did not refinance the loan. (NRS 40.455) ~~[Section]~~

Sections 3 , 3.3 and 5.7 of this bill **enact similar provisions to govern deficiency judgments sought by junior lienholders after a foreclosure sale, a trustee's sale or any sale or deed in lieu of a foreclosure sale or trustee's sale. Section 3** provides that, if ~~[these]~~ **the** circumstances **prohibiting a deficiency judgment after a foreclosure sale or trustee's sale under current law** exist with respect to a junior lienholder, the creditor

may not bring a civil action to recover the debt owed to it after a foreclosure sale ~~[, short]~~ **, a trustee's sale or a** sale or deed in lieu of a foreclosure sale ~~[.]~~ **or trustee's sale.**

Existing law authorizes a creditor under an obligation secured by a junior mortgage or deed of trust to bring an action to obtain a personal judgment against the debtor only if the action is commenced within 6 years after the date of the debtor's default. (NRS 11.190) Under sections 3.3 and 5.7 of this bill, if the real property securing such an obligation is the subject of a foreclosure sale, a trustee's sale or a sale or deed in lieu of such a sale, the creditor may bring an action to obtain a personal judgment against the debtor only if the action is brought within 6 months after the foreclosure sale, the trustee's sale or the sale in lieu of a foreclosure sale or trustee's sale.

Under existing law, the amount of a deficiency judgment after a foreclosure sale or a trustee's sale may not exceed the lesser of: (1) the amount of the indebtedness minus the fair market value of the foreclosed property at the time of the sale; or (2) the amount of the indebtedness minus the amount for which the foreclosed property actually sold. (NRS 40.459) **Section 5** of this bill provides that, for a deficiency judgment sought by a secured creditor after a foreclosure sale **,** ~~[or]~~ trustee's sale ~~[,]~~ **or sale in lieu of a foreclosure sale or trustee's sale,** the amount of the deficiency judgment must be reduced by the amount of any insurance proceeds received by, or payable to, the creditor. **Section 2** of this bill enacts a corresponding provision for money judgments sought against a debtor by a junior lienholder after a foreclosure sale, ~~[short]~~ **a trustee's sale or a** sale or deed in lieu of a foreclosure sale ~~[.]~~ **or trustee's sale.**

Sections 2 and 5 also limit the recovery of a creditor who acquired the right to obtain payment for an obligation secured by the real property from another person who owned that obligation. If the creditor is seeking a deficiency judgment after a foreclosure sale **,** ~~[or]~~ a trustee's sale ~~[,]~~ **or a sale in lieu of a foreclosure sale or trustee's sale, section 5** provides that the creditor may not a receive an amount which exceeds the lesser of: (1) the consideration paid for the obligation minus the fair market value of the property at the time of the foreclosure sale, with interest from the date of sale and reasonable costs; or (2) the consideration paid for the obligation minus the amount for which the property actually sold, with interest from the date of sale and reasonable costs. If the creditor is a junior lienholder who filed a civil action to obtain a money judgment against the debtor, **section 2** provides that the creditor may not receive an amount greater than the consideration paid for the obligation, with interest from the date ~~[of the default]~~ **on which the person acquired the right to obtain payment** and reasonable costs.

Section 5.5 of this bill limits the amount of a judgment against a guarantor, surety or other obligor, other than a mortgagor or grantor of a deed of trust, in an action commenced before a foreclosure sale or

trustee's sale to enforce the obligation to pay, satisfy or purchase all or part of an obligation secured by a mortgage or other lien on real property. Under section 5.5, the amount of the judgment may not exceed the lesser of: (1) the amount of the indebtedness minus the fair market value of the real property at the time of the commencement of the action; or (2) if a foreclosure sale or a trustee's sale is completed before the date on which judgment is entered, the amount of the indebtedness minus the amount for which the foreclosed property actually sold.

Section 6 of this bill provides that the amendatory provisions of this bill apply only prospectively to obligations secured by a mortgage, deed of trust or other encumbrance upon real property on or after ~~[July 1, 2011.]~~ **the effective date of this bill.**

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

Section 1. Chapter 40 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2 and 3]~~ **1.2 to 3.3, inclusive,** of this act.

Sec. 1.2. ***As used in sections 1.2 to 3.3, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.4, 1.6 and 1.8 of this act have the meanings ascribed to them in those sections.***

Sec. 1.4. *"**Foreclosure sale" has the meaning ascribed to it in NRS 40.462.***

Sec. 1.6. *"**Mortgage or other lien" has the meaning ascribed to it in NRS 40.433.***

Sec. 1.8. *"**Sale in lieu of a foreclosure sale" means a sale of real property pursuant to an agreement between a person to whom an obligation secured by a mortgage or other lien on real property is owed and the debtor of that obligation in which the sales price of the real property is insufficient to pay the full outstanding balance of the obligation and the costs of the sale. The term includes, without limitation, a deed in lieu of a foreclosure sale.***

Sec. 2. ***1. If a person to whom an obligation secured by a junior mortgage or lien on real property is owed*** ~~*[files]*~~ ***:***

(a) Files *a civil action to obtain a money judgment against the debtor* ***under that obligation*** *after a foreclosure sale or a sale in lieu of a foreclosure sale* ~~*[.]*~~ ***; and***

(b) Such action is not barred by NRS 40.430,

↳ *in determining the amount owed by the debtor, the court shall not include the amount of any proceeds received by, or payable to, the person pursuant to an insurance policy to compensate the person for losses incurred with respect to the property or the default on the obligation.*

2. If ***:*** ~~*[a person:]*~~

(a) ~~*[Acquired]*~~ ***A person acquired*** *the right to enforce an obligation secured by a junior mortgage or lien on real property from a person who previously held that right;* ~~*[and]*~~

(b) ~~[Files]~~ The person files a civil action to obtain a money judgment against the debtor after a foreclosure sale or a sale in lieu of a foreclosure sale ~~[,]~~ ; and

(c) Such action is not barred by NRS 40.430,

➥ the court shall not render judgment for more than the amount of the consideration paid for that right, plus interest from the date ~~[of the default]~~ on which the person acquired the right and reasonable costs.

3. As used in this section ~~[,~~

~~(a) "Foreclosure sale" has the meaning ascribed to it in NRS 40.462.~~

~~(b) "Sale in lieu of a foreclosure sale" includes, without limitation, a short sale and a deed in lieu of a foreclosure sale.]~~ , "obligation secured by a junior mortgage or lien on real property" includes, without limitation, an obligation which is not currently secured by a mortgage or lien on real property if the obligation:

(a) Is incurred by the debtor under an obligation which was secured by a mortgage or lien on real property; and

(b) Has the effect of reaffirming the obligation which was secured by a mortgage or lien on real property.

Sec. 3. ***1. A person to whom an obligation ~~[described in paragraph (c) of subsection 2 of NRS 40.462]~~ secured by a junior mortgage or lien on real property is owed may not bring any action to enforce that obligation ~~[, even if the proceeds of]~~ after a foreclosure sale of the real property which secured that obligation or a sale in lieu of a foreclosure sale ~~[are insufficient and a balance remains due the person,]~~ if:***

(a) The person is a financial institution;

(b) The real property which secured the obligation is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or sale in lieu of a foreclosure sale;

(c) The debtor or grantor used the amount of the obligation to purchase the real property;

(d) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the obligation; and

(e) The debtor or grantor did not refinance the obligation after securing it.

2. As used in this section ~~[:~~

~~(a) "Financial]~~ , "financial institution" has the meaning ascribed to it in NRS 363A.050.

~~[(b) "Foreclosure sale" has the meaning ascribed to it in NRS 40.462.~~

~~(c) "Sale in lieu of a foreclosure sale" includes, without limitation, a short sale and a deed in lieu of a foreclosure sale.]~~

Sec. 3.3. A civil action not barred by NRS 40.430 or section 3 of this act by a person to whom an obligation secured by a junior mortgage or lien on real property is owed to obtain a money judgment against the debtor after a foreclosure sale of the real property or a sale in lieu of a foreclosure

sale may only be commenced within 6 months after the date of the foreclosure sale or sale in lieu of a foreclosure.

Sec. 4. ~~[NRS 40.451 is hereby amended to read as follows:~~

~~40.451 As used in NRS 40.451 to 40.463, inclusive, *and sections 2 and 3 of this act,* "indebtedness" means the principal balance of the obligation secured by a mortgage or other lien on real property, together with all interest accrued and unpaid prior to the time of foreclosure sale, all costs and fees of such a sale, all advances made with respect to the property by the beneficiary, and all other amounts secured by the mortgage or other lien on the real property in favor of the person seeking the deficiency judgment. Such amount constituting a lien is limited to the amount of the consideration paid by the lienholder.]~~ **(Deleted by amendment.)**

Sec. 5. NRS 40.459 is hereby amended to read as follows:

40.459 ***1.*** After the hearing, the court shall award a money judgment against the debtor, guarantor or surety who is personally liable for the debt. The court shall not render judgment for more than:

~~[1.]~~ ***(a)*** The amount by which the amount of the indebtedness which was secured exceeds the fair market value of the property sold at the time of the sale, with interest from the date of the sale; ~~[or~~

~~2.]~~ ***(b)*** The amount which is the difference between the amount for which the property was actually sold and the amount of the indebtedness which was secured, with interest from the date of sale ~~[.]~~ ***; or***

(c) If the person seeking the judgment acquired the right to obtain the judgment from a person who previously held that right, the amount by which the amount of the consideration paid for that right exceeds the fair market value of the property sold at the time of sale or the amount for which the property was actually sold, whichever is greater, with interest from the date of sale and reasonable costs,

➥ whichever is the lesser amount.

2. For the purposes of this section, the "amount of the indebtedness" does not include any amount received by, or payable to, the judgment creditor or beneficiary of the deed of trust pursuant to an insurance policy to compensate the judgment creditor or beneficiary for any losses incurred with respect to the property or the default on the debt.

Sec. 5.5. **NRS 40.495 is hereby amended to read as follows:**

40.495 1. The provisions of NRS 40.475 and 40.485 may be waived by the guarantor, surety or other obligor only after default.

2. Except as otherwise provided in subsection ~~[4,]~~ ***5,*** a guarantor, surety or other obligor, other than the mortgagor or grantor of a deed of trust, may waive the provisions of NRS 40.430. If a guarantor, surety or other obligor waives the provisions of NRS 40.430, an action for the enforcement of that person's obligation to pay, satisfy or purchase all or part of an indebtedness or obligation secured by a mortgage or lien upon real property may be maintained separately and independently from:

(a) An action on the debt;

(b) The exercise of any power of sale;

(c) Any action to foreclose or otherwise enforce a mortgage or lien and the indebtedness or obligations secured thereby; and

(d) Any other proceeding against a mortgagor or grantor of a deed of trust.

3. If the obligee maintains an action to foreclose or otherwise enforce a mortgage or lien and the indebtedness or obligations secured thereby, the guarantor, surety or other obligor may assert any legal or equitable defenses provided pursuant to the provisions of NRS 40.451 to 40.463, inclusive.

4. ***If, before a foreclosure sale of real property, the obligee commences an action against a guarantor, surety or other obligor, other than the mortgagor or grantor of a deed of trust, to enforce an obligation to pay, satisfy or purchase all or part of an indebtedness or obligation secured by a mortgage or lien upon the real property, the court:***

(a) Must hold a hearing and take evidence presented by either party concerning the fair market value of the property as of the date of the commencement of the action. Notice of such hearing must be served upon all defendants who have appeared in the action and against whom a judgment is sought, or upon their attorneys of record, at least 15 days before the date set for the hearing.

(b) After the hearing, the court shall award a money judgment against the debtor, guarantor or surety who is personally liable for the debt. The court must not render judgment for more than:

(1) The amount by which the amount of the indebtedness exceeds the fair market value of the property as of the date of the commencement of the action; or

(2) If a foreclosure sale is concluded before a judgment is entered, the amount that is the difference between the amount for which the property was actually sold and the amount of the indebtedness which was secured,

➥ whichever is the lesser amount.

5. The provisions of NRS 40.430 may not be waived by a guarantor, surety or other obligor if the mortgage or lien:

(a) Secures an indebtedness for which the principal balance of the obligation was never greater than $500,000;

(b) Secures an indebtedness to a seller of real property for which the obligation was originally extended to the seller for any portion of the purchase price;

(c) Is secured by real property which is used primarily for the production of farm products as of the date the mortgage or lien upon the real property is created; or

(d) Is secured by real property upon which:

(1) The owner maintains the owner's principal residence;

(2) There is not more than one residential structure; and

(3) Not more than four families reside.

6. As used in this section, "foreclosure sale" has the meaning ascribed to it in NRS 40.462.

Sec. 5.7. **NRS 11.190 is hereby amended to read as follows:**

11.190 Except as otherwise provided in NRS 125B.050 and 217.007, ***and section 3.3 of this act,*** actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without the owner's fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution or other lender because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall

be deemed to accrue upon the discovery by the financial institution or other lender of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his or her official capacity and in virtue of his or her office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

(f) An action to recover damages under NRS 41.740.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his or her official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his or her official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

Sec. 6. The amendatory provisions of this act apply only to an obligation secured by a mortgage, deed of trust or other encumbrance upon real property on or after ~~[July 1, 2011.]~~ **the effective date of this act.**

Sec. 7. This act becomes effective ~~[on July 1, 2011.]~~ **upon passage and approval.**

Assemblyman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 276.

Bill read second time.

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

Amendment No. 495.

SUMMARY—Requires the State Controller to make **certain** data ~~[concerning certain accounts]~~ available for public inspection on an Internet website established and maintained by the State Controller. (BDR 18-371)

AN ACT relating to financial administration; requiring the State Controller to make **certain** data ~~[concerning certain accounts]~~ available for public inspection on an Internet website established and maintained by the State Controller; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Office of the State Controller and sets forth his or her duties concerning various financial provisions of the State. (Chapter 227 of NRS) As part of those duties, the State Controller is required annually to digest, prepare and report to the Governor and the Legislature: (1) a complete statement of the condition of the revenue, taxable funds, resources, income and property of the State and the amount of the expenditures for the preceding fiscal year; (2) a full and detailed statement of the public debt; (3) a tabular statement showing separately the whole amount of each appropriation made by law, the amount paid under each of those appropriations and the unexpended balance of those appropriations; and (4) a tabular statement showing the amount of revenue collected from each county for the preceding year. (NRS 227.110) **Section 1** of this bill requires the State Controller to make available for public inspection, on an Internet website established and maintained by him or her, **current** data ~~[concerning all expenditures accounts and revenue accounts, including, without limitation, certain accounts exceeding $100,000,000. The data must be disaggregated by county unless otherwise specified by the State Controller and must be prepared for each calendar quarter or other period specified by the State Controller occurring within a biennium. For each expenditures account and revenue account, the State Controller is required to make available for public inspection on the Internet website: (1) a brief description of the account; (2) an identification of the source of all data concerning the account; (3) a table setting forth the amounts received in and expended from the account; (4) a graph displaying those amounts; (5) the most recent date on which the State Controller made the data available and the next expected date for making that data available; (6) a comparison of certain amounts; and (7) a statement by the State Controller indicating whether or not any data have been corrected or adjusted. Section 2 of this bill requires the State Controller to make those data available for public inspection on the Internet website concerning each expenditures account and revenue account for the current biennium, the 2007-2009 biennium and any earlier biennium specified by the State Controller.]~~ **maintained in the records of the State Controller concerning the expenditures and revenues of this State, including, without limitation: (1) a table displaying all revenues received during each month from certain sources; (2) a table displaying all expenditures made each month for certain purposes; (3) a graph displaying certain cumulative expenditures by month during the current biennium and the**

immediately preceding biennium; and (4) for each source of revenue totaling more than $100,000,000 as set forth in the legislatively approved budget for a biennium, the total amount projected in that budget to be received during that biennium and a graph displaying the cumulative revenue by month for that biennium and the immediately preceding biennium. Section 2 of this bill deletes by amendment provisions which, if enacted, would have required the State Controller to make available for public inspection financial data for certain preceding biennia. Section 3 of this bill will, if enacted, make this bill become effective upon passage and approval for the purpose of performing any preparatory administrative tasks necessary to carry out the provisions of this bill, and on July 1, 2012, for all other purposes.

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

Section 1. Chapter 227 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[1.]~~ ***In addition to any record required to be open to inspection pursuant to NRS 227.290 or 239.010, the State Controller shall, on an Internet website established and maintained by him or her, make available for public inspection current data*** ~~[concerning all expenditures accounts and revenue accounts, including, without limitation, each expenditures account and revenue account consisting of an amount which is]~~ ***maintained in the records of the State Controller concerning the expenditures and revenues of this State, including, without limitation:***

1. A table displaying all revenues received during each month from:

(a) Fees;

(b) Fines;

(c) Interest;

(d) Licensing revenue;

(e) Taxes; and

(f) Transfers from the Federal Government;

2. A table displaying all expenditures made each month for:

(a) Education;

(b) Government, including, without limitation, the operation of the courts of this State;

(c) Health and social services;

(d) Law enforcement;

(e) Programs for housing, industrial insurance and unemployment insurance;

(f) Public safety;

(g) Recreation and resource development;

(h) The regulation of businesses; and

(i) Transportation;

3. For each category of expenditures specified in subsection 2, a graph displaying cumulative expenditures by month for the current biennium and the immediately preceding biennium; and

4. For each source of revenue totaling more than $100,000,000 as set forth in the legislatively approved budget for a biennium ~~*[. Any data made available pursuant to this section must be disaggregated by county, unless the State Controller determines that such disaggregation is not practicable, in which case the data must be prepared on a statewide basis or disaggregated using a geographic unit specified by the State Controller.*~~

~~*2. For each calendar quarter or other period specified by the State Controller pursuant to subsection 3 occurring within a biennium, the State Controller shall, for each expenditures account and revenue account, make available on the website established and maintained pursuant to subsection 1:*~~

~~*(a) A brief description of the account;*~~

~~*(b) An identification of the source of all data concerning the account;*~~

~~*(c) A table setting forth the amounts received in and expended from the account;*~~

~~*(d) A graph displaying the amounts set forth in paragraph (c);*~~

~~*(e) The most recent date on which the State Controller made data available regarding the account and the next expected date for making such data available;*~~

~~*(f) A comparison of the amounts received and expended to each corresponding budgeted amount approved by the Legislature for the applicable biennium; and*~~

~~*(g) A statement by the State Controller indicating whether or not any data regarding the account have been corrected or adjusted.*~~

~~*3. The State Controller shall ensure that all data required to be made available pursuant to this section:*~~

~~*(a) Except as otherwise provided in this paragraph, is prepared for each calendar quarter occurring within the biennium for which the State Controller makes the data available pursuant to this section. If the State Controller determines that providing data concerning an expenditures account or revenue account for a calendar quarter is not practicable, the State Controller may specify a different period for preparing that data.*~~

~~*(b) Is made available on the Internet website established and maintained by the State Controller pursuant to this section before the expiration of the calendar quarter immediately following the calendar quarter or other period for which the data is prepared pursuant to paragraph (a).*~~

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

~~*(a) "Expenditures account" means any account in which an expenditure is accounted for and which is set forth in a chart of accounts maintained by the State Controller.*~~

~~*(b) "Revenue account" means any account in which revenue is accounted for and which is set forth in a chart of accounts maintained by the State Controller.]*~~ ***:***

(a) The total amount projected in that budget to be received during that biennium; and

(b) A graph displaying the cumulative revenue by month for that biennium and the immediately preceding biennium.

Sec. 2. ~~[As soon as practicable after July 1, 2011, the State Controller shall, for the 2007-2009 biennium, the 2009-2011 biennium and any earlier biennium specified by the State Controller, make available for public inspection on the Internet website established and maintained by the State Controller pursuant to section 1 of this act all data required to be prepared pursuant to that section for each expenditures account and revenue account specified in that section.]~~ **(Deleted by amendment.)**

Sec. 3. This act becomes effective:

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

2. On July 1, ~~[2011,]~~ **2012,** for all other purposes.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 283.

Bill read second time.

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

Amendment No. 428.

SUMMARY—Revises provisions relating to ~~[registration with the Nationwide Mortgage Licensing System and Registry.]~~ **mortgage loans.** (BDR 54-830)

AN ACT relating to mortgage loans; revising provisions governing the requirement for certain mortgage agents, mortgage bankers, mortgage brokers and other employees to register with the Nationwide Mortgage Licensing System and Registry; **revising provisions governing continuing education requirements for certain licensees; providing certain investors who deposit money with a mortgage broker with an exemption from criminal and civil liability for the acts or omissions of the mortgage broker; revising provisions governing the employment or association of mortgage agents;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 requires that a person who originates residential mortgage loans be licensed as a loan originator and requires that such a loan originator be

registered with the Nationwide Mortgage Licensing System and Registry. (12 U.S.C. § 5103) Existing law in Nevada prescribes the requirements for a license as a mortgage agent, mortgage banker, mortgage broker or a qualified employee who is a residential mortgage loan originator, which include, without limitation, registration with the Nationwide Mortgage Licensing System and Registry. (NRS 645B.0137, 645E.200) **Section ~~[1]~~ 6** of this bill provides that such a person is not required to register **or renew** with the Nationwide Mortgage Licensing System and Registry **, or provide reports of financial condition to the Registry,** if: (1) the person is not a residential mortgage loan originator or the supervisor of a residential mortgage loan originator; and (2) the person is not required to register pursuant to the federal Act. **Section 6 also provides that such a person who voluntarily registers or renews with the Registry shall comply with all requirements of the federal Act.**

Under existing law, the Commissioner of Mortgage Lending is required to adopt such regulations as necessary to carry out the provisions of the federal Act. (NRS 645F.293) **Section ~~[2]~~ 7** of this bill provides that the regulations must not require registration of a person who is exempt pursuant to **section ~~[1.]~~ 6.**

Sections 1, 2 and 4 of this bill revise provisions governing continuing education requirements for persons who are exempt pursuant to section 6 and who have not voluntarily registered or renewed with the Registry. Section 3 of this bill exempts certain investors who deposit money with a mortgage broker from criminal and civil liability for the acts or omissions of the mortgage broker. Section 5 of this bill revises provisions governing the employment of or association with a mortgage agent by a mortgage broker, mortgage banker or person who holds a certificate of exemption issued by the Commissioner of Mortgage Lending. Section 8 of this bill repeals certain provisions governing mortgage bankers which are included within the amendatory provisions of section 5.

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

Section 1. **NRS 645B.0138 is hereby amended to read as follows:**

645B.0138 1. A course of continuing education that is required pursuant to this chapter must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

(c) Ensuring compliance with the requirements for registration with the Registry and any other applicable federal law.

3. The regulations adopted by the Commissioner pursuant to subsection 2 must not require a mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker who, pursuant to subsection 1 of section 6 of this act, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry to complete any continuing education relating to residential mortgage loans.

Sec. 2. **NRS 645B.051 is hereby amended to read as follows:**

645B.051 1. Except as otherwise provided in ~~[this section,]~~ ***subsection 2,*** in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

2. ~~[The Commissioner may provide by regulation that if a person attends more than 10 hours of certified courses of continuing education during a 12-month period, the extra hours may be used to satisfy the requirement for the immediately following 12-month period and for that immediately following 12-month period only.]~~ ***In lieu of the continuing education requirements set forth in paragraph (a) or (b) of subsection 1, a licensee or any natural person who supervises the daily business of the licensee who, pursuant to subsection 1 of section 6 of this act, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry must submit to the Commissioner satisfactory proof that he or she attended at least 5 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires. The hours of continuing education required by this subsection must include:***

(a) At least 3 hours relating to the laws and regulations of this State; and

(b) At least 2 hours relating to ethics.

3. As used in this section, "certified course of continuing education" means a course of continuing education which relates to the mortgage

industry or mortgage transactions and which meets the requirements set forth by the Commissioner by regulation pursuant to NRS 645B.0138.

Sec. 3. **NRS 645B.175 is hereby amended to read as follows:**

645B.175 1. Except as otherwise provided in this section, all money received by a mortgage broker and his or her mortgage agents from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is independent of the parties and subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that the money does not belong to the mortgage broker.

(2) Received pursuant to subsection 4.

2. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 1 must be released:

(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the debtor or the debtor's designee less the amount due the mortgage broker for the payment of any fee or service charge;

(b) If the loan or the transfer thereof is not consummated, to each investor who furnished the money held in trust; or

(c) Pursuant to any instructions regarding the escrow account.

3. The amount held in trust pursuant to subsection 1 must not be released to the debtor or the debtor's designee unless:

(a) The amount released is equal to the total amount of money which is being loaned to the debtor for that loan, less the amount due the mortgage broker for the payment of any fee or service charge; and

(b) The mortgage broker has provided a written instruction to a title agent or title insurer requiring that a lender's policy of title insurance or appropriate title endorsement, which names as an insured each investor who owns a beneficial interest in the loan, be issued for the real property securing the loan.

4. Except as otherwise provided in this section, all money paid to a mortgage broker and his or her mortgage agents by a person in full or in partial payment of a loan secured by a lien on real property, must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that it does not belong to the mortgage broker.

(2) Received pursuant to subsection 1.

5. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 4:

(a) Must be released, upon the deduction and payment of any fee or service charge due the mortgage broker, to each investor who owns a beneficial interest in the loan in exact proportion to the beneficial interest that the investor owns in the loan; and

(b) Must not be released, in any proportion, to an investor who owns a beneficial interest in the loan, unless the amount described in paragraph (a) is also released to every other investor who owns a beneficial interest in the loan.

6. An investor may waive, in writing, the right to receive one or more payments, or portions thereof, that are released to other investors in the manner set forth in subsection 5. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection. Any such written waiver applies only to the payment or payments, or portions thereof, that are included in the written waiver and does not affect the right of the investor to:

(a) Receive the waived payment or payments, or portions thereof, at a later date; or

(b) Receive all other payments in full and in accordance with the provisions of subsection 5.

7. Upon reasonable notice, any mortgage broker described in this section shall:

(a) Account to any investor or debtor who has paid to the mortgage broker or his or her mortgage agents money that is required to be deposited in a trust account pursuant to this section; and

(b) Account to the Commissioner for all money which the mortgage broker and his or her mortgage agents have received from each investor or debtor and which the mortgage broker is required to deposit in a trust account pursuant to this section.

8. Money received by a mortgage broker and his or her mortgage agents pursuant to this section from a person who is not associated with the mortgage broker may be held in trust for not more than 45 days before an escrow account must be opened in connection with the loan. If, within this 45-day period, the loan or the transfer therefor is not consummated, the money must be returned within 24 hours. If the money is so returned, it may not be reinvested with the mortgage broker for at least 15 days.

9. If a mortgage broker or a mortgage agent receives any money pursuant to this section, the mortgage broker or mortgage agent, after the deduction and payment of any fee or service charge due the mortgage broker, shall not release the money to:

(a) Any person who does not have a contractual or legal right to receive the money; or

(b) Any person who has a contractual right to receive the money if the mortgage broker or mortgage agent knows or, in light of all the surrounding facts and circumstances, reasonably should know that the person's contractual right to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.

10. If a mortgage broker maintains any accounts described in subsection 1 or subsection 4, the mortgage broker shall, in addition to the annual financial statement audited pursuant to NRS 645B.085, submit to the Commissioner each 6 calendar months a financial statement concerning those trust accounts.

11. The Commissioner shall adopt regulations concerning the form and content required for financial statements submitted pursuant to subsection 10.

12. Any duty, responsibility or obligation of a mortgage broker pursuant to this chapter is not delegable or transferable to an investor, and, if an investor only provides money to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, no criminal or civil liability may be imposed on the investor for any act or omission of a mortgage broker.

Sec. 4. **NRS 645B.430 is hereby amended to read as follows:**

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

(a) An application for renewal;

(b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and

(c) A renewal fee set by the Commissioner of not more than $170.

2. ***In lieu of the continuing education requirement set forth in paragraph (b) of subsection 1, the holder of a license as a mortgage agent who, pursuant to subsection 1 of section 6 of this act, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry must submit to the Commissioner satisfactory proof that he or she attended at least 5 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires. The hours of continuing education required by this subsection must include:***

(a) At least 3 hours relating to the laws and regulations of this State; and

(b) At least 2 hours relating to ethics.

3. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 ***or 2*** to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of $75.

~~[3.]~~ ***4.*** To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of $10.

~~[4.]~~ ***5.*** To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee of $10.

~~[5.]~~ ***6.*** Money received by the Commissioner pursuant to this section is in addition to any fee that must be paid to the Registry and must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

~~[6. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.]~~

7. As used in this section, "certified course of continuing education" has the meaning ascribed to it in NRS 645B.051.

Sec. 5. **NRS 645B.450 is hereby amended to read as follows:**

645B.450 1. A person licensed as a mortgage agent pursuant to the provisions of NRS 645B.410 may not be associated with or employed by more than one ***licensed or registered*** mortgage broker ***or mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016*** at the same time.

2. A mortgage broker ***, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016*** shall not associate with or employ a person as a mortgage agent or authorize a person to be associated with the mortgage broker ***, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016*** as a mortgage agent if the mortgage agent is not licensed with the Division pursuant to NRS 645B.410. ***Before allowing a mortgage agent to act on its behalf, a mortgage broker, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016, must:***

(a) Enter its sponsorship of the mortgage agent with the Registry; or

(b) If the mortgage agent is not required to be registered with the Registry, notify the Division of its sponsorship of the mortgage agent.

3. If a mortgage agent terminates his or her association or employment with a mortgage broker ***, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016*** for any reason, the mortgage broker ***, mortgage banker or person who holds a certificate of exemption***

pursuant to NRS 645B.016 shall, not later than the third business day following the date of termination:

(a) ~~[Deliver]~~ ***Remove its sponsorship of the mortgage agent from the Registry; or***

(b) If the mortgage agent is not required to be registered with the Registry, deliver to the ***Division and to the*** mortgage agent ~~[or send by certified mail to]~~ ***at*** the last known residence address of the mortgage agent a written statement which ~~[advises the mortgage agent that the termination is being reported to the Division; and~~

~~(b) Deliver or send by certified mail to the Division:~~

~~(1) The license or license number of the mortgage agent;~~

~~(2) A written statement of the circumstances surrounding the termination; and~~

~~(3) A copy of the written statement that the mortgage broker delivers or mails to the mortgage agent pursuant to paragraph (a).]~~ ***includes the name, address and license number of the mortgage agent and a statement of the circumstances of the termination.***

~~[Section 1.]~~ ***Sec. 6.*** Chapter 645F of NRS is hereby amended by adding thereto a new section to read as follows:

1. A mortgage agent, mortgage banker or mortgage broker or an employee of a ~~[mortgage agent,]~~ mortgage banker or mortgage broker is not required to register or renew with the Registry , or provide reports of financial condition to the Registry, if the mortgage agent, mortgage banker, mortgage broker or employee:

(a) Is not a residential mortgage loan originator or the supervisor of a residential mortgage loan originator; and

(b) Is not required to register pursuant to the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. A mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker who, pursuant to subsection 1, is not required to register or renew with the Registry and who voluntarily registers or renews with the Registry shall comply with all requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and any regulations adopted pursuant thereto.

3. As used in this section, "residential mortgage loan originator" has the meaning ascribed to it in NRS 645B.01325.

~~[Sec. 2.]~~ ***Sec. 7.*** NRS 645F.293 is hereby amended to read as follows:

645F.293 1. The Commissioner shall adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. The regulations must include, without limitation:

(a) A method by which to allow for reporting regularly violations of the relevant provisions of chapter 645B or 645E of NRS, enforcement actions and other relevant information to the Registry; and

(b) A process whereby a person may challenge information reported to the Registry by the Commissioner.

3. The regulations must not require a mortgage agent, mortgage banker or mortgage broker or an employee of a ~~[mortgage agent,]~~ mortgage banker or mortgage broker to register with the Registry if the mortgage agent, mortgage banker, mortgage broker or employee is exempt from registration pursuant to subsection 1 of section ~~[1]~~ 6 of this act.

Sec. 8. **NRS 645E.292 is hereby repealed.**

~~[Sec. 3.]~~ ***Sec. 9.*** This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

645E.292 Duties of mortgage banker upon termination of mortgage agent. If a mortgage agent terminates his or her association or employment with a mortgage banker for any reason, the mortgage banker shall, not later than 3 business days following knowledge of the date of termination:

1. Deliver to the mortgage agent or send by certified mail to the last known residence address of the mortgage agent a written statement which advises the mortgage agent that the termination is being reported to the Division; and

2. Deliver or send by certified mail to the Division:

(a) The license or license number of the mortgage agent;

(b) A written statement of the circumstances surrounding the termination; and

(c) A copy of the written statement that the mortgage banker delivers or mails to the mortgage agent pursuant to subsection 1.

Assemblyman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 284.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 324.

AN ACT relating to real property; revising provisions governing the recording of assignments of mortgages and deeds of trust; revising provisions governing the exercise of the power of sale under a deed of trust; revising provisions concerning the crimes of mortgage lending fraud and making a false representation concerning title to real property; providing civil and criminal penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under exiting law, the assignment of a mortgage or the beneficial interest in a deed of trust may be recorded. (NRS 106.210, 107.070) **Section 1** of this bill requires such an assignment to be recorded in the office of the county

recorder of the county in which the real property is located **.** ~~[within 60 days after the assignment.]~~

Sections 4, 7 and 8 of this bill increase from $500 to $1,000 the civil liability of a mortgagee or trustee or beneficiary under a deed of trust who fails to discharge the mortgage or deed of trust within 21 days after the obligation secured by mortgage or deed of trust has been satisfied.

Section 6 of this bill prescribes certain duties of a trustee under a deed of trust and provides for a civil action against a trustee under certain circumstances.

~~[Sections]~~ **Section 9** ~~[and 11]~~ of this bill ~~[require]~~ **requires** a notice of default and election to sell real property subject to a deed of trust to include ~~[:~~ ~~(1)]~~ an affidavit setting forth certain information concerning the deed of trust **,** ~~[and]~~ the amounts due ~~[; and (2) a statement under penalty of perjury that the person executing and recording the notice of default and election to sell has actual]~~ **, the** possession of the note and the deed of trust and ~~[has]~~ the authority to foreclose. **Section 9** also provides for a civil action against a person who exercises the power of sale under a deed of trust without complying with the provisions of law governing the exercise of that power.

Existing law authorizes certain persons to request a statement of the amount necessary to discharge a debt secured by a deed of trust. (NRS 107.210) **Section 12** of this bill adds to the information required to be provided in this statement: (1) the identity of the trustee, any trustee's agent, the current holder of the note, the beneficiary of record and the servicers of the debt; and (2) if the debt is in default, the amount in default, the principal, interest, default fees and the cost and fees associated with the exercise of a power of sale.

Section 13 of this bill revises provisions relating to the crime of mortgage lending fraud by: (1) providing that a person who commits mortgage lending fraud is subject to a civil penalty of not more than $5,000; and (2) authorizing the owner or the holder of the beneficial interest in the real property to bring a civil action for damages suffered because of the conduct and for attorney's fees and costs.

Section 14 of this bill revises the crime of making a false representation concerning title and increases the penalty for such a crime from a gross misdemeanor to a category C felony. If the person engages in a pattern of making false representations concerning title, the person is guilty of a category B felony. In addition, a person who commits this crime is subject to a civil penalty of not more than $5,000, and the owner or the holder of the beneficial interest in the real property may bring a civil action for damages suffered because of the false representation and for attorney's fees and costs.

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

Section 1. NRS 106.210 is hereby amended to read as follows:

106.210 1. Any assignment of a mortgage of real property, or of a mortgage of personal property or crops recorded prior to March 27, 1935, and any assignment of the beneficial interest under a deed of trust ~~[may]~~ ***must*** be recorded ~~[,]~~ ***in the office of the recorder of the county in which the property is located,*** ~~*[within 60 days after the assignment]*~~ and from the time any of the same are so filed for record shall operate as constructive notice of the contents thereof to all persons. ~~*[The assignment is not effective to provide notice of its contents]*~~ ***A mortgage of real property, or a mortgage of personal property or crops recorded prior to March 27, 1935, which has been assigned may not be enforced unless and until*** ~~*[it]*~~ ***the assignment is recorded*** ~~*[,]*~~ ***pursuant to this subsection. If the beneficial interest under a deed of trust has been assigned, the trustee under the deed of trust may not exercise the power of sale pursuant to NRS 107.080 unless and until the assignment is recorded pursuant to this subsection.***

2. Each such filing or recording ~~[shall]~~ ***must*** be properly indexed by the recorder.

Sec. 2. NRS 106.220 is hereby amended to read as follows:

106.220 1. Any instrument by which any mortgage or deed of trust of, lien upon or interest in real property is subordinated or waived as to priority, ~~[may,]~~ ***must,*** in case it concerns only one or more mortgages or deeds of trust of, liens upon or interests in real property, together with, or in the alternative, one or more mortgages of, liens upon or interests in personal property or crops, the instruments or documents evidencing or creating which have been recorded prior to March 27, 1935, be recorded ~~[,]~~ ***in the office of the recorder of the county in which the property is located,*** ~~*[within 60 days after the instrument is executed]*~~ and from the time any of the same are so filed for record ~~[shall operate]~~ ***operates*** as constructive notice of the contents thereof to all persons. ***The instrument is not enforceable under this chapter or chapter 107 of NRS unless and until it is recorded.***

2. Each such filing or recording ~~[shall]~~ ***must*** be properly indexed by the recorder.

Sec. 3. NRS 106.280 is hereby amended to read as follows:

106.280 Every certificate of discharge of a recorded mortgage, and the proof or acknowledgment thereof, ~~[shall]~~ ***must*** be recorded at full length, and a reference ~~[shall]~~ ***must*** be made to the ***county*** book containing such record in the minutes of the discharge of such mortgage made by the recorder upon the record thereof.

Sec. 4. NRS 106.290 is hereby amended to read as follows:

106.290 1. Within 21 calendar days after receiving written notice that a debt secured by a mortgage has been paid or otherwise satisfied or discharged, the mortgagee shall cause a discharge of the mortgage to be recorded pursuant to NRS 106.260 or 106.270 if the mortgagor, the mortgagor's heirs or assigns have fully performed the conditions of the mortgage.

2. If a mortgagee fails to comply with the provisions of this section, the mortgagee is liable in a civil action to the mortgagor, the mortgagor's heirs or assigns for:

(a) The sum of ~~[$500,]~~ ***$1,000;***

(b) Any actual damages caused by the failure of the mortgagee to comply with the provisions of this section; and

(c) ~~[A reasonable]~~ ***Reasonable*** attorney's ~~[fee]~~ ***fees*** and the costs of bringing the action.

3. Except as otherwise provided in this subsection, if a mortgagee fails to cause a discharge of the mortgage to be recorded pursuant to subsection 1 within 75 calendar days, a title insurer may prepare and cause to be recorded a release of the mortgage. At least 30 calendar days before the recording of a release pursuant to this subsection, the title insurer shall mail, by first-class mail, postage prepaid, notice of the intention to record the release of the mortgage to the mortgagor and mortgagee, or their successors in interest, at the last known address of each such person. A release prepared and recorded pursuant to this subsection shall be deemed a discharge of the mortgage. The title insurer shall not cause a release to be recorded pursuant to this subsection if the title insurer receives written instructions to the contrary from the mortgagor, the mortgagee or a successor in interest.

4. The release prepared pursuant to subsection 3 must set forth:

(a) The name of the mortgagor;

(b) The name of the mortgagee;

(c) The recording reference to the mortgage;

(d) A statement that the debt secured by the mortgage has been paid in full or otherwise satisfied or discharged;

(e) The date and amount of payment or other satisfaction or discharge; and

(f) The name and address of the title insurer issuing the release.

5. A release prepared and recorded pursuant to subsection 3 does not relieve a mortgagee of the requirements imposed by subsections 1 and 2.

6. In addition to any other remedy provided by law, a title insurer who improperly causes to be recorded a release of a mortgage pursuant to this section is liable in a civil action for actual damages and for a reasonable attorney's fee and the costs of bringing the action to any person who is injured because of the improper recordation of the release.

7. Any person who willfully violates this section is guilty of a misdemeanor.

8. As used in this section, "title insurer" has the meaning ascribed to it in NRS 692A.070.

Sec. 5. NRS 106.360 is hereby amended to read as follows:

106.360 1. A borrower may execute an instrument encumbering the borrower's real property to secure future advances from a lender within a mutually agreed maximum amount of principal. ***The instrument or an amendment to the instrument is enforceable only if the instrument or the amendment is recorded in the office of the county recorder of the county in***

which the real property is located and the party seeking to enforce the instrument or the amendment is an original party to the instrument or amendment or the current assignee of record.

2. The instrument must state clearly:

(a) That it secures future advances; and

(b) The maximum amount of principal to be secured.

3. The maximum amount of advances of principal to be secured by the instrument may increase or decrease from time to time by amendment of the instrument.

Sec. 6. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The trustee under a deed of trust must be:

(a) An attorney licensed to practice law in this State;

(b) A title insurer or title agent authorized to do business in this State pursuant to chapter 692A of NRS; or

(c) [An association or corporation engaged in the business of acting as trustee under deeds of trust in this State.] A person licensed pursuant to chapter 669 of NRS or a person exempt from the provisions of chapter 669 of NRS pursuant to paragraph (a) or (h) of subsection 1 of NRS 669.080.

2. A trustee under a deed of trust must not be the beneficiary of the deed of trust [.] for the purposes of exercising the power of sale pursuant to NRS 107.080.

3. A trustee under a deed of trust must not:

(a) Lend its name or its corporate capacity to any person who is not qualified to be the trustee under a deed of trust pursuant to subsection 1.

(b) Act individually or in concert with any other person to circumvent the requirements of subsection 1.

4. A [trustee under a deed of trust may resign at its own election, and the] beneficiary of record may replace [the] its trustee with another trustee. The [resignation] appointment of a new trustee is not effective until the [resignation] substitution of trustee is recorded in the office of the recorder of the county in which the real property is located . [and 30 days after the trustee provided written notice of its resignation to the beneficiary. If a trustee is not appointed in the deed of trust, or upon the resignation, incapacity, disability, absence or death of the trustee, or the election of the beneficiary to replace the trustee, the beneficiary of record must appoint a trustee and record in the office of the recorder of the county in which the real property is located a document indicating the appointment of the trustee. The appointment is not effective until the document is recorded.]

5. The trustee does not have a fiduciary obligation to the grantor or any other person having an interest in the property which is subject to the deed of trust. The trustee shall act impartially and in good faith with respect to the deed of trust and shall act in accordance with the laws of this State. A rebuttable presumption that a trustee has acted impartially and in good faith exists if the trustee acts in compliance with the provisions of

NRS 107.080. In performing acts required by NRS 107.080, the trustee incurs no liability for any good faith error resulting from reliance on information provided by the beneficiary regarding the nature and the amount of the default under the obligation secured by the deed of trust if the trustee corrects the good faith error not later than 20 days after discovering the error.

6. If, in an action brought by a grantor, a person who holds title of record or a beneficiary in the district court in and for the county in which the real property is located, the court finds that the trustee did not comply with this section, any other provision of this chapter or any applicable provision of chapter 106 or 205 of NRS, the court must award to the grantor, the person who holds title of record or the beneficiary:

(a) Damages of $5,000 or treble the amount of actual damages, whichever is greater;

(b) An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and

(c) ~~*[Both the damages described in paragraph (a) and the injunction described in paragraph (b); and*~~

~~*(d)]*~~ ***Reasonable attorney's fees and costs*** ~~*[.]*~~ ***,***

➥ unless the court finds good cause for a different award.

Sec. 7. NRS 107.077 is hereby amended to read as follows:

107.077 1. Within 21 calendar days after receiving written notice that a debt secured by a deed of trust made on or after October 1, 1991, has been paid or otherwise satisfied or discharged, the beneficiary shall deliver to the trustee or the trustor the original note and deed of trust, if the beneficiary is in possession of those documents, and a properly executed request to reconvey the estate in real property conveyed to the trustee by the grantor. If the beneficiary delivers the original note and deed of trust to the trustee or the trustee has those documents in his or her possession, the trustee shall deliver those documents to the grantor.

2. Within 45 calendar days after a debt secured by a deed of trust made on or after October 1, 1991, is paid or otherwise satisfied or discharged, and a properly executed request to reconvey is received by the trustee, the trustee shall cause to be recorded a reconveyance of the deed of trust.

3. If the beneficiary fails to deliver to the trustee a properly executed request to reconvey pursuant to subsection 1, or if the trustee fails to cause to be recorded a reconveyance of the deed of trust pursuant to subsection 2, the beneficiary or the trustee, as the case may be, is liable in a civil action to the grantor, his or her heirs or assigns in the sum of ~~[$500,]~~ ***$1,000,*** plus ~~[a]~~ reasonable attorney's ~~[fee]~~ ***fees*** and the costs of bringing the action, and the beneficiary or the trustee is liable in a civil action to any party to the deed of trust for any actual damages caused by the failure to comply with the provisions of this section and for ~~[a]~~ reasonable attorney's ~~[fee]~~ ***fees*** and the costs of bringing the action.

4. Except as otherwise provided in this subsection, if a reconveyance is not recorded pursuant to subsection 2 within:

(a) Seventy-five calendar days after the payment, satisfaction or discharge of the debt, if the payment, satisfaction or discharge was made on or after October 1, 1993; or

(b) Ninety calendar days after the payment, satisfaction or discharge of the debt, if the payment, satisfaction or discharge was made before October 1, 1993,

➥ a title insurer may prepare and cause to be recorded a release of the deed of trust. At least 30 calendar days before the recording of a release pursuant to this subsection, the title insurer shall mail, by first-class mail, postage prepaid, notice of the intention to record the release of the deed of trust to the trustee, trustor and beneficiary of record, or their successors in interest, at the last known address of each such person. A release prepared and recorded pursuant to this subsection shall be deemed a reconveyance of a deed of trust. The title insurer shall not cause a release to be recorded pursuant to this subsection if the title insurer receives written instructions to the contrary from the trustee, the trustor, the owner of the land, the holder of the escrow or the owner of the debt secured by the deed of trust or his or her agent.

5. The release prepared pursuant to subsection 4 must set forth:

(a) The name of the beneficiary;

(b) The name of the trustor;

(c) The recording reference to the deed of trust;

(d) A statement that the debt secured by the deed of trust has been paid in full or otherwise satisfied or discharged;

(e) The date and amount of payment or other satisfaction or discharge; and

(f) The name and address of the title insurer issuing the release.

6. A release prepared and recorded pursuant to subsection 4 does not relieve a beneficiary or trustee of the requirements imposed by subsections 1 and 2.

7. A trustee may charge a reasonable fee to the trustor or the owner of the land for services relating to the preparation, execution or recordation of a reconveyance or release pursuant to this section. A trustee shall not require the fees to be paid before the opening of an escrow, or earlier than 60 calendar days before the payment, satisfaction or discharge of the debt secured by the deed of trust. If a fee charged pursuant to this subsection does not exceed $100, the fee is conclusively presumed to be reasonable.

8. In addition to any other remedy provided by law, a title insurer who improperly causes to be recorded a release of a deed of trust pursuant to this section is liable for actual damages and for a reasonable attorney’s fee and the costs of bringing the action to any person who is injured because of the improper recordation of the release.

9. Any person who willfully violates this section is guilty of a misdemeanor.

Sec. 8. NRS 107.078 is hereby amended to read as follows:

107.078 1. If a deed of trust made on or after October 1, 1995, authorizes the grantor to discharge in part the debt secured by the deed of trust and the deed of trust authorizes a partial reconveyance of the estate in real property in consideration of a partial discharge, the beneficiary shall, within 21 calendar days after receiving notice that the debt secured by the deed of trust has been partially discharged, deliver to the trustee a properly executed request for a partial reconveyance of the estate in real property conveyed to the trustee by the grantor.

2. Within 45 calendar days after a debt secured by a deed of trust made on or after October 1, 1995, is partially discharged and a properly executed request for a partial reconveyance is received by the trustee, the trustee shall cause to be recorded a partial reconveyance of the deed of trust.

3. If the beneficiary fails to deliver to the trustee a properly executed request for a partial reconveyance pursuant to subsection 1, or if the trustee fails to cause to be recorded a partial reconveyance of the deed of trust pursuant to subsection 2, the beneficiary or the trustee, as the case may be, is liable in a civil action to the grantor, the grantor's heirs or assigns in the amount of ~~[$500,]~~ ***$1,000,*** plus ~~[a]~~ reasonable attorney's ~~[fee]~~ ***fees*** and the costs of bringing the action, and the beneficiary or trustee is liable in a civil action to any party to the deed of trust for any actual damages caused by the failure to comply with the provisions of this section and for ~~[a]~~ reasonable attorney's ~~[fee]~~ ***fees*** and the costs of bringing the action.

4. Except as otherwise provided in this subsection, if a partial reconveyance is not recorded pursuant to subsection 2 within 75 calendar days after the partial satisfaction of the debt and if the satisfaction was made on or after October 1, 1995, a title insurer may prepare and cause to be recorded a partial release of the deed of trust. At least 30 calendar days before the recording of a partial release pursuant to this subsection, the title insurer shall mail, by first-class mail, postage prepaid, notice of the intention to record the partial release of the deed of trust to the trustee, trustor and beneficiary of record, or their successors in interest, at the last known address of each such person. A partial release prepared and recorded pursuant to this subsection shall be deemed a partial reconveyance of a deed of trust. The title insurer shall not cause a partial release to be recorded pursuant to this subsection if the title insurer receives written instructions to the contrary from the trustee, trustor, owner of the land, holder of the escrow or owner of the debt secured by the deed of trust or his or her agent.

5. The release prepared pursuant to subsection 4 must set forth:

(a) The name of the beneficiary;

(b) The name of the trustor;

(c) The recording reference to the deed of trust;

(d) A statement that the debt secured by the deed of trust has been partially discharged;

(e) The date and amount of partial payment or other partial satisfaction or discharge;

(f) The name and address of the title insurer issuing the partial release; and

(g) The legal description of the estate in real property which is reconveyed.

6. A partial release prepared and recorded pursuant to subsection 4 does not relieve a beneficiary or trustee of the requirements imposed by subsections 1 and 2.

7. A trustee may charge a reasonable fee to the trustor or the owner of the land for services relating to the preparation, execution or recordation of a partial reconveyance or partial release pursuant to this section. A trustee shall not require the fees to be paid before the opening of an escrow or earlier than 60 calendar days before the partial payment or partial satisfaction or discharge of the debt secured by the deed of trust. If a fee charged pursuant to this subsection does not exceed $100, the fee is conclusively presumed to be reasonable.

8. In addition to any other remedy provided by law, a title insurer who improperly causes to be recorded a partial release of a deed of trust pursuant to this section is liable for actual damages and for a reasonable attorney's fee and the costs of bringing the action to any person who is injured because of the improper recordation of the partial release.

9. Any person who willfully violates this section is guilty of a misdemeanor.

Sec. 9. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS ***106.210,*** 107.085 and 107.086, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment ~~[;]~~ .

(b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property

has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment **[~~:~~]** **.**

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a ~~[:~~

~~*(1) A]*~~ notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation **[~~:~~]** **[~~and~~]** ~~[~~

~~*(2) A]*~~ ***which, except as otherwise provided in this paragraph, includes a notarized affidavit of authority to exercise the power of sale*** ~~*[which:*~~

~~*(I) States the identity of]*~~ ***stating, based on personal knowledge and under the penalty of perjury:***

(1) The full name and business address of the trustee or the trustee's personal representative or assignee, the current holder of the note secured by the deed of trust, the current beneficiary of record and the servicers of the obligation or debt secured by the deed of trust;

~~*[(II) Describes the]*~~

(2) The full name and last known business address of every prior known beneficiary of the deed of trust;

(3) That the beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the deed of trust;

(4) That the trustee has the authority to exercise the power of sale with respect to the property pursuant to the instruction of the beneficiary of record and the current holder of the note secured by the deed of trust;

(5) The amount in default, the principal amount of the obligation or debt secured by the deed of trust ~~*[, the interest accrued and unpaid on the obligation or debt secured by the deed of trust,]*~~ ***, a good faith estimate of all fees imposed and to be imposed because of the default and the costs and fees charged to the debtor in connection with the exercise of the power of sale; and***

~~*[(III) The full name and address of record of the current beneficiary and every prior beneficiary under the deed of trust; and*~~

~~*(IV)]*~~

(6) The date, recordation number or other unique designation of the instrument that conveyed the interest of each beneficiary and a description of the instrument that conveyed the interest of each beneficiary . ~~*[; and*~~

~~*(3) A statement, based on personal knowledge and under penalty of perjury, that:*~~

~~*(I) Contains the full name and address of the current beneficiary of record and the current holder of the note secured by the deed of trust;*~~

~~*(II) The beneficiary, the successor in interest of the beneficiary or the trustee is in actual physical possession of the note secured by the deed of trust; and*~~

~~*(III) The beneficiary, the successor in interest of the beneficiary or the trustee has authority to exercise the power of sale with respect to the property pursuant to the instruction of the beneficiary of record and the current holder of the note secured by the deed of trust; and]*~~

➥ The affidavit described in this paragraph is not required for the exercise of the trustee's power of sale with respect to any trust agreement which concerns a time share within a time share plan created pursuant to chapter 119A of NRS if the power of sale is being exercised for the initial beneficiary under the deed of trust or an affiliate of the initial beneficiary.

(d) Not less than 3 months have elapsed after the recording of the notice. ~~*[, the affidavit and the statement pursuant to paragraph (c).]*~~

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is ~~*[and the affidavit and the statement described in paragraph (c) of subsection 2 are]*~~ recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is ~~*[and the affidavit and the statement described in paragraph (c) of subsection 2 are]*~~ mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is ~~*[and the affidavit and statement described in paragraph (c) of subsection 2 are]*~~ recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice ~~*[, the affidavit and the statement]*~~ and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2; and

(b) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address

of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated; and

(d) If the property is a residential foreclosure complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section ~~[may]~~ ***must*** be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS 107.086 and 107.087;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is ~~*[and the affidavit and the statement described in paragraph (c) of subsection 2 are]*~~ recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. ***If, in an action brought by the grantor or the person who holds title of record in the district court in and for the county in which the real property is located, the court finds that the beneficiary, the successor in interest of the beneficiary or the trustee did not comply with any requirement of subsection 2, 3 or 4, the court must award to the grantor or the person who holds title of record:***

(a) Damages of $5,000 or treble the amount of actual damages, whichever is greater;

(b) An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and

(c) ~~*[Both the damages described in paragraph (a) and the injunction described in paragraph (b); and*~~

~~*(d)]*~~ ***Reasonable attorney's fees and costs*** ~~*[.]*~~ ***,***

➥ ***unless the court finds good cause for a different award. The remedy provided in this subsection is in addition to the remedy provided in subsection 5.***

8. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

~~**[**8.**]**~~ ***9.*** After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

~~**[**9.**]**~~ ***10.*** If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection ~~**[**8,**]**~~ ***9,*** the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to $500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection ~~**[**8**]**~~ ***9*** and for reasonable attorney's fees and the costs of bringing the action.

~~**[**10.**]**~~ ***11.*** The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell ~~*[and the affidavit and statement described in paragraph (c) of subsection 2]*~~ collect:

(a) A fee of $150 for deposit in the State General Fund.

(b) A fee of $50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

➥ The fees collected pursuant to this subsection must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account as prescribed pursuant to this subsection. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in this subsection.

[~~11.~~**]** ***12.*** The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell ~~*[and the affidavit and statement described in paragraph (c) of subsection 2]*~~ shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection **[**~~10.~~

~~12.~~**]** ***11.***

13. As used in this section **[**~~, "residential~~**]** ***:***

(a) "Residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence":

[~~(a)~~**]** ***(1)*** Means a structure that is comprised of not more than four units.

[~~(b)~~**]** ***(2)*** Does not include any time share or other property regulated under chapter 119A of NRS.

(b) "Trustee" means the trustee of record.

Sec. 10. **[**~~NRS 107.086 is hereby amended to read as follows:~~

~~107.086 1. In addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section.~~

~~2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:~~

~~(a) Includes with the notice of default and election to sell~~ ***, the affidavit and the statement required by NRS 107.080*** ~~which~~ **[**~~is~~**]** ***are*** ~~mailed to the grantor or the person who holds the title of record as required by subsection 3 of~~ **[**~~NRS 107.080:~~**]** ***that section:***

~~(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;~~

~~(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development; and~~

~~(3) A form upon which the grantor or the person who holds the title of record may indicate an election to enter into mediation or to waive mediation and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;~~

~~(b) Serves a copy of the notice upon the Mediation Administrator; and~~

~~(c) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:~~

~~(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 3 or 6 which provides that no mediation is required in the matter; or~~

~~(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 7 which provides that mediation has been completed in the matter.~~

~~3. The grantor or the person who holds the title of record shall, not later than 30 days after service of the notice in the manner required by NRS 107.080, complete the form required by subparagraph (3) of paragraph (a) of subsection 2 and return the form to the trustee by certified mail, return receipt requested. If the grantor or the person who holds the title of record indicates on the form an election to enter into mediation, the trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the grantor or the person who holds the title of record to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. No further action may be taken to exercise the power of sale until the completion of the mediation. If the grantor or the person who holds the title of record indicates on the form an election to waive mediation or fails to return the form to the trustee as required by this subsection, the trustee shall execute an affidavit attesting to that fact under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor or the person who holds the title of record, or proof of service on the grantor or the person who holds the title of record of the notice required by subsection 2 of this section and subsection 3 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service, the Mediation Administrator shall provide to the trustee a certificate which provides that no mediation is required in the matter.~~

~~4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 8. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or a representative shall attend the mediation if the grantor elected to enter into mediation, or the person who holds the title of record or a representative shall attend the mediation if the person who holds the title of record elected to enter into mediation. The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.~~

~~5. If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 4 or does not have the authority or access to a person with the authority required by subsection 4, the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative.~~

~~The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.~~

~~6. If the grantor or the person who holds the title of record elected to enter into mediation and fails to attend the mediation, the Mediation Administrator shall provide to the trustee a certificate which states that no mediation is required in the matter.~~

~~7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.~~

~~8. The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:~~

~~(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.~~

~~(b) Ensuring that mediations occur in an orderly and timely manner.~~

~~(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.~~

~~(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.~~

~~(e) Establishing a total fee of not more than $400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.~~

~~9. Except as otherwise provided in subsection 11, the provisions of this section do not apply if:~~

~~(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or~~

~~(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.~~

~~10. A noncommercial lender is not excluded from the application of this section.~~

~~11. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence is immune from civil liability for those acts.~~

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

~~(a) "Mediation Administrator" means the entity so designated pursuant to subsection 8.~~

~~(b) "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.~~

~~(c) "Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include any time share or other property regulated under chapter 119A of NRS.~~**]** **(Deleted by amendment.)**

Sec. 11. ~~[NRS 107.095 is hereby amended to read as follows:~~

~~107.095 1. The notice of default~~ ~~*, the affidavit and the statement*~~ ~~required by NRS 107.080 must also be sent by registered or certified mail, return receipt requested and with postage prepaid, to each guarantor or surety of the debt. If the address of the guarantor or surety is unknown, the notice~~ ~~*, affidavit and statement*~~ ~~must be sent to the address of the trust property. Failure to~~ **[**~~give~~**]** ~~*send* the notice, *affidavit and statement,* except as otherwise provided in subsection 3, releases the guarantor or surety from his or her obligation to the beneficiary, but does not affect the validity of a sale conducted pursuant to NRS 107.080 or the obligation of any guarantor or surety to whom the notice was properly given.~~

~~2. Failure to give the notice of default required by NRS 107.090, except as otherwise provided in subsection 3, releases the obligation to the beneficiary of any person who has complied with NRS 107.090 and who is or may otherwise be held liable for the debt or other obligation secured by the deed of trust, but such a failure does not affect the validity of a sale conducted pursuant to NRS 107.080 or the obligation of any person to whom the notice was properly given pursuant to this section or to NRS 107.080 or 107.090.~~

~~3. A guarantor, surety or other obligor is not released pursuant to this section if:~~

~~(a) The required notice is given at least 15 days before the later of:~~

~~(1) The expiration of the 15- or 35-day period described in paragraph (a) of subsection 2 of NRS 107.080;~~

~~(2) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the expiration of the period described in paragraph (b) of subsection 2 of NRS 107.080; or~~

~~(3) Any extension of the applicable period by the beneficiary; or~~

~~(b) The notice is rescinded before the sale is advertised.~~**]** **(Deleted by amendment.)**

Sec. 12. NRS 107.210 is hereby amended to read as follows:

107.210 Except as otherwise provided in NRS 107.230 and 107.240, the beneficiary of a deed of trust secured on or after October 1, 1995, shall, within 21 days after receiving a request from a person authorized to make such a request pursuant to NRS 107.220, cause to be mailed, postage prepaid, or sent by facsimile machine to that person a statement of the amount necessary to discharge the debt secured by the deed of trust. The statement must set forth:

1. ***The identity of the trustee or the trustee's personal representative or assignee, the current holder of the note secured by the deed of trust, the beneficiary of record and the servicers of the obligation or debt secured by the deed of trust;***

2. The amount of money necessary to discharge the debt secured by the deed of trust on the date the statement is prepared by the beneficiary; ~~[and~~

~~2.]~~ ***3.*** The information necessary to determine the amount of money required to discharge the debt on a per diem basis for a period, not to exceed 30 days, after the statement is prepared by the beneficiary ~~[.]~~ ***; and***

4. If the debt is in default, the amount in default, the principal amount of the obligation or debt secured by the deed of trust, the interest accrued and unpaid on the obligation or debt secured by the deed of trust, all fees imposed because of the default and the costs and fees charged to the debtor in connection with the exercise of the power of sale.

Sec. 13. NRS 205.372 is hereby amended to read as follows:

205.372 1. A person who ~~[, with the intent to defraud]~~ ***is*** a participant in a mortgage lending transaction ~~[:]~~ ***and who:***

(a) Knowingly makes a false statement or misrepresentation concerning a material fact or ~~[deliberately]~~ ***knowingly*** conceals or fails to disclose a material fact;

(b) Knowingly uses or facilitates the use of a false statement or misrepresentation made by another person concerning a material fact or ~~[deliberately]~~ ***knowingly*** uses or facilitates the use of another person's concealment or failure to disclose a material fact;

(c) Receives any proceeds or any other money in connection with a mortgage lending transaction that the person knows resulted from a violation of paragraph (a) or (b);

(d) Conspires with another person to violate any of the provisions of paragraph (a), (b) or (c); or

(e) Files or causes to be filed with a county recorder any document that the person knows to include a misstatement, misrepresentation or omission concerning a material fact,

➥ commits the offense of mortgage lending fraud which is a category C felony and, upon conviction, shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, or by a fine of not more than $10,000, or by both fine and imprisonment.

2. A person who engages in a pattern of mortgage lending fraud or conspires or attempts to engage in a pattern of mortgage lending fraud is guilty of a category B felony and, upon conviction, shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, or by a fine of not more than $50,000, or by both fine and imprisonment.

3. Each mortgage lending transaction in which a person violates any provision of subsection 1 constitutes a separate violation.

4. Except as otherwise provided in this subsection, if a lender or any agent of the lender is convicted of the offense of mortgage lending fraud in violation of this section, the mortgage lending transaction with regard to which the fraud was committed may be rescinded by the borrower within 6 months after the date of the conviction if the borrower gives written notice to the lender and records that notice with the recorder of the county in which the mortgage was recorded. A mortgage lending transaction may not be rescinded pursuant to this subsection if the lender has transferred the mortgage to a bona fide purchaser.

5. The Attorney General may investigate and prosecute a violation of this section.

6. ***In addition to the criminal penalties imposed for a violation of this section, any person who violates this section is subject to a civil penalty of not more than $5,000 for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General. In such an action, the Attorney General may recover reasonable attorney's fees and costs.***

7. The owner or holder of the beneficial interest in real property which is the subject of mortgage lending fraud may bring a civil action in the district court in and for the county in which the real property is located to recover any damages suffered by the owner or holder of the beneficial interest plus reasonable attorney's fees and costs.

8. As used in this section:

(a) "Bona fide purchaser" means any person who purchases a mortgage in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the lender or any agent of the lender engaged in mortgage lending fraud in violation of this section.

(b) "Mortgage lending transaction" means any transaction between two or more persons for the purpose of making or obtaining, attempting to make or obtain, or assisting another person to make or obtain a loan that is secured by a mortgage or other lien on residential real property. The term includes, without limitation:

(1) The solicitation of a person to make or obtain the loan;

(2) The representation or offer to represent another person to make or obtain the loan;

(3) The negotiation of the terms of the loan;

(4) The provision of services in connection with the loan; and

(5) The execution of any document in connection with making or obtaining the loan.

(c) "Participant in a mortgage lending transaction" includes, without limitation:

(1) A borrower as defined in NRS 598D.020;

(2) An escrow agent as defined in NRS 645A.010;

(3) A foreclosure consultant as defined in NRS 645F.320;

(4) A foreclosure purchaser as defined in NRS 645F.330;

(5) An investor as defined in NRS 645B.0121;

(6) A lender as defined in NRS 598D.050;

(7) A loan modification consultant as defined in NRS 645F.365;

(8) A mortgage agent as defined in NRS 645B.0125;

(9) A mortgage banker as defined in NRS 645E.100; and

(10) A mortgage broker as defined in NRS 645B.0127.

(d) "Pattern of mortgage lending fraud" means one or more violations of a provision of subsection 1 committed in two or more mortgage lending transactions which have the same or similar ~~[intents,]~~ ***purposes,*** results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

Sec. 14. NRS 205.395 is hereby amended to read as follows:

205.395 ***1.*** Every person who ~~[shall maliciously or fraudulently execute or file for record any instrument, or put forward any claim by which the right or title of another to any real property is, or purports to be, transferred, encumbered or clouded, shall be guilty of a gross misdemeanor.]~~ ***:***

(a) Claims an interest in, or a lien or encumbrance against, real property in a document that is recorded in the office of the county recorder in which the real property is located and who knows or has reason to know that the document is forged or groundless, contains a material misstatement or false claim or is otherwise invalid;

(b) Executes or notarizes a document purporting to create an interest in, or a lien or encumbrance against, real property, that is recorded in the office of the county recorder in which the real property is located and who knows or has reason to know that the document is forged or groundless, contains a material misstatement or false claim or is otherwise invalid; or

(c) Causes a document described in paragraph (a) or (b) to be recorded in the office of the county recorder in which the real property is located and who knows or has reason to know that the document is forged or groundless, contains a material misstatement or false claim or is otherwise invalid,

➥ has made a false representation concerning title.

2. A person who makes a false representation concerning title in violation of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. A person who engages in a pattern of making false representations concerning title is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, or by a fine of not more than $50,000, or by both fine and imprisonment.

4. In addition to the criminal penalties imposed for a violation of this section, any person who violates this section is subject to a civil penalty of not more than $5,000 for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General. In such an action, the Attorney General may recover reasonable attorney's fees and costs.

5. Except as otherwise provided in this subsection, the owner or holder of the beneficial interest in real property which is the subject of a false representation concerning title may bring a civil action in the district court in and for the county in which the real property is located to recover any damages suffered by the owner or holder of the beneficial interest plus reasonable attorney's fees and costs. The owner or holder of the beneficial interest in the real property must, before bringing a civil action pursuant to this subsection, send a written request to the person who made the false representation to record a document which corrects the false representation. If the person records such a document not later than 20 days after the date of the written request, the owner or holder of the beneficial interest may not bring a civil action pursuant to this subsection.

6. As used in this section, "pattern of making false representations concerning title" means one or more violations of a provision of subsection 1 committed in two or more transactions:

(a) Which have the same or similar pattern, purposes, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics;

(b) Which are not isolated incidents within the preceding 4 years; and

(c) In which the aggregate loss or intended loss is more than $250.

Sec. 14.5. **The amendatory provisions of:**

1. Section 1 of this act apply only to an assignment of a mortgage of real property, or of a mortgage of personal property or crops recorded before March 27, 1935, and any assignment of the beneficial interest under a deed of trust, which is made on or after July 1, 2011.

2. Section 2 of this act apply only to an instrument by which any mortgage or deed of trust of, lien upon or interest in real property is subordinated or waived as to priority which is made on or after July 1, 2011.

3. Section 5 of this act apply only to an instrument encumbering a borrower's real property to secure future advances from a lender within a mutually agreed maximum amount of principal, or an amendment to such an instrument, which is made on or after July 1, 2011.

4. Section 9 of this act apply only to a notice of default and election to sell which is recorded pursuant to NRS 107.080, as amended by section 9 of this act, on or after July 1, 2011.

Sec. 15. 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. 308.

Bill read second time.

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

Amendment No. 429.

AN ACT relating to mortgage lending; revising provisions governing certain mortgage lending professionals to be consistent with certain federal law governing the provision of mortgage assistance relief services; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law regulates the activities of certain mortgage lending professionals who provide counseling, assistance and advice to homeowners whose homes are subject to an outstanding notice of the pendency of an action for foreclosure. (NRS 645F.300-645F.450) The Federal Trade Commission similarly regulates the activities of persons who provide mortgage assistance relief services. (16 C.F.R. Part 322) This bill revises Nevada law to provide protections for homeowners consistent with the protections provided pursuant to the regulations adopted by the Federal Trade Commission.

Section 2 of this bill prohibits a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant from requesting or receiving any compensation before a homeowner executes a written agreement that incorporates an offer of mortgage assistance.

Section 3 of this bill requires a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant to maintain certain records for not less than 24 months. **Section 3** provides that such records are subject to inspection and audit by the Commissioner of Mortgage Lending. **Section 3** also requires a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant to take reasonable steps to ensure that any of his or her employees or independent contractors comply with the laws and regulations governing persons who perform covered services for compensation, foreclosure consultants and loan modification consultants.

Section 4 of this bill requires a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant to make certain disclosures in connection with any commercial communication relating to the provision of any covered service.

Section 5 of this bill requires a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant to provide certain notices to a homeowner at the time the homeowner is presented with a written agreement incorporating an offer of mortgage assistance obtained from the homeowner's lender or servicer.

Section 6 of this bill prohibits a person who knows or reasonably should know that a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant is not in compliance with the laws and regulations governing covered services from providing substantial assistance or support to the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant.

Section 8 of this bill extends to the employees of an attorney at law the exemption from regulation as a foreclosure consultant or foreclosure purchaser that is currently provided under certain circumstances to an attorney at law.

Section 9 of this bill prohibits a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant from making certain express or implied representations relating to the provision of covered services, including any representation that: (1) a homeowner cannot or should not contact or communicate with his or her lender; or (2) the covered service is affiliated with or endorsed by the Federal Government, the State of Nevada or any department, agency or political subdivision thereof. **Section 9** also prohibits a person who performs any covered service, a foreclosure consultant or a loan modification consultant from obtaining or attempting to obtain from a homeowner a waiver of any provision of this bill or existing law. Any such waiver is void and unenforceable. A violation of any provision of **section 9** constitutes mortgage lending fraud and is punishable as a category C felony.

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

Section 1. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall not claim, demand, charge, collect or receive any compensation before a homeowner has executed a written agreement with the lender or servicer incorporating the offer of mortgage assistance obtained from the lender or servicer by the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant.***

Sec. 3. ***1. A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall keep each of the following records for a period of not less than 24 months after the date the record is created:***

(a) Each contract or other agreement between the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant and a homeowner.

(b) A copy of each written communication between the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant and a homeowner which occurred before the date on which the homeowner entered into a contract for covered services.

(c) A copy of every document or telephone recording created in connection with the requirements of subsection 2.

(d) The file of each homeowner, which must include, without limitation, the name of the homeowner, his or her telephone number, the amount of money paid by the homeowner and a description of the covered services purchased by the homeowner.

(e) For each covered service, a copy of every materially different sales script, training material, commercial communication or any other marketing material, including, without limitation, any material published on an Internet website.

(f) A copy of each disclosure provided to a homeowner pursuant to section 5 of this act.

2. A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall:

(a) Take reasonable steps to ensure that all employees and independent contractors of the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant comply with the provisions of NRS 645F.300 to 645F.450, inclusive, and sections 2 to 6, inclusive, of this act and any regulations adopted pursuant thereto.

(b) If the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant is engaged in the telemarketing of covered services, perform random, blind recording and testing of the oral representations made by persons engaged in sales or other customer service functions.

(c) Establish a procedure for receiving and responding to all complaints of homeowners.

(d) Record the number and nature of complaints of homeowners regarding transactions involving an employee or independent contractor of the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant.

(e) Investigate promptly and fully each complaint received from a homeowner.

(f) Take corrective action with respect to any employee or independent contractor whom the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant determines is not complying with the provisions of NRS 645F.300 to

645F.450, inclusive, and sections 2 to 6, inclusive, of this act and any regulations adopted pursuant thereto.

(g) Maintain any information necessary to demonstrate compliance with the requirements of this subsection.

3. All records kept pursuant to this section are subject to inspection and audit by the Commissioner and authorized representatives of the Commissioner.

Sec. 4. *1. A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall:*

(a) Include with each general commercial communication for any covered service the following disclosures printed in at least 12-point type:

(1) "[Name of company] is not associated with the government, and our service is not approved by the government or your lender."

(2) In any case in which the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant makes an express or implied representation that homeowners will receive covered services:

"Even if you accept this offer and use our service, your lender may not agree to change your loan."

(b) Include with each commercial communication which is specific to a homeowner the following disclosures printed in at least 12-point type:

(1) "You may stop doing business with us at any time. You may accept or reject the offer we obtain from your lender [or servicer]. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us [insert total amount or method of calculating the total amount] for our services."

(2) "[Name of company] is not associated with the government, and our service is not approved by the government or your lender."

(3) In any case in which the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant makes an express or implied representation that the homeowner will receive covered services:

"Even if you accept this offer and use our service, your lender may not agree to change your loan."

(c) Include with any commercial communication relating to a covered service in which the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant represents expressly or by implication that a homeowner should temporarily or permanently discontinue payments, in whole or in part, on any mortgage or lien on a residence in foreclosure a clear and prominent statement, in close proximity to the express or implied representation and printed in at least 12-point type, which provides that:

"If you stop paying your mortgage, you could lose your home and damage your credit rating."

2. The disclosures required by paragraphs (a) and (b) of subsection 1 must be made in a clear and prominent manner and:

(a) In a written communication, the disclosures must appear together and be preceded by the heading "IMPORTANT NOTICE," printed in at least 14-point bold type; and

(b) In an oral communication, the audio component of the required disclosures must be preceded by the statement "Before using this service, consider the following information" and, if the oral communication is made by telephone, must be made at the beginning of the communication.

3. As used in this section, "total amount" means all amounts the homeowner must pay to purchase, receive and use all covered services that are subject to the contract for covered services, including, without limitation, all fees and charges.

Sec. 5. *1. A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall, at the time the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant provides a homeowner with a written agreement between the homeowner and the homeowner's lender or servicer incorporating the offer of mortgage assistance obtained from the homeowner's lender or servicer:*

(a) Provide the following notice printed in at least 12-point type to the homeowner:

"This is an offer of mortgage assistance we obtained from your lender [or servicer]. You may accept or reject the offer. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us [insert total amount or method of calculating the total amount] for our services."

➥ The notice must be made in a clear and prominent manner on a separate written page and be preceded by the heading "IMPORTANT NOTICE: BEFORE BUYING THIS SERVICE, CONSIDER THE FOLLOWING INFORMATION" printed in at least 14-point bold type.

(b) Provide the homeowner with a notice printed in at least 12-point type from the homeowner's lender or servicer which includes a complete description of all material differences between the terms, conditions and limitations which apply to the homeowner's current mortgage loan and the terms, conditions and limitations which will apply to the homeowner's mortgage loan if he or she accepts the offer of the lender or servicer, including, without limitation, the differences between the mortgage loans with regard to the:

(1) Principal balance;

(2) Contract interest rate, including the maximum rate and any adjustable rates;

(3) Amount and number of scheduled periodic payments;

(4) Monthly amounts owed for principal, interest, taxes and mortgage insurance;

(5) Amount of any delinquent payments owing or outstanding; and

(6) Term.

➥ The notice required by this paragraph must be made in a clear and prominent manner on a separate written page and be preceded by the heading "IMPORTANT INFORMATION FROM [name of lender or servicer] ABOUT THIS OFFER" printed in at least 14-point bold type.

2. If the offer obtained from the lender or servicer by the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant is a trial mortgage loan modification, the notice required by paragraph (b) of subsection 1 must include notice to the homeowner:

(a) That the homeowner may not qualify for a permanent mortgage loan modification; and

(b) Setting forth the likely amount of scheduled periodic payments and arrears, payments and fees the homeowner would owe if the homeowner failed to qualify for a permanent mortgage loan modification.

3. As used in this section, "total amount" has the meaning ascribed to it in section 4 of this act.

Sec. 6. ***A person who knows or reasonably should know that another person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant is in violation of any provision of NRS 645F.300 to 645F.450, inclusive, and sections 2 to 6, inclusive, of this act and any regulations adopted pursuant thereto shall not provide substantial assistance or support to the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant.***

Sec. 7. NRS 645F.300 is hereby amended to read as follows:

645F.300 As used in NRS 645F.300 to 645F.450, inclusive, ***and sections 2 to 6, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 645F.310 to 645F.370, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 645F.380 is hereby amended to read as follows:

645F.380 The provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 to 6, inclusive, of this act*** do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:

1. An attorney at law rendering services in the performance of his or her duties as an attorney at law ~~[,]~~ ***and his or her employees,*** unless the attorney at law ~~[is]~~ ***or his or her employees are*** rendering those services in the course and scope of his or her employment by or other affiliation with a ~~[mortgage broker or mortgage agent;]~~ ***person who is licensed or required to be licensed pursuant to NRS 645F.390;***

2. A provider of debt-management services registered pursuant to chapter 676A of NRS while providing debt-management services pursuant to chapter 676A of NRS;

3. A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank ~~[;]~~ ***System;***

4. A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

5. Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;

6. A person, other than a person who is licensed pursuant to NRS 645F.390, who is licensed pursuant to chapter 692A or any chapter of title 54 of NRS while acting under the authority of the license;

7. A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or

8. A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

Sec. 9. NRS 645F.400 is hereby amended to read as follows:

645F.400 1. A person who performs any covered service, a foreclosure consultant and a loan modification consultant shall not:

(a) Claim, demand, charge, collect or receive any compensation except in accordance with ~~[NRS 645F.394.]~~ ***the terms of a contract for covered services.***

(b) Claim, demand, charge, collect or receive any fee, interest or other compensation for any reason which is not fully disclosed to the homeowner.

(c) Take ***or acquire, directly or indirectly,*** any wage assignment, lien on real or personal property, assignment of a homeowner's equity ~~[or other]~~ ***, any*** interest in a residence ~~[in foreclosure]~~ or other security for the payment of compensation. Any such ***assignment or*** security is void and unenforceable.

(d) Receive any consideration from any third party in connection with a covered service provided to a homeowner unless the consideration is first fully disclosed to the homeowner.

(e) ~~[Acquire, directly or indirectly, any interest in the residence in foreclosure of a homeowner with whom the foreclosure consultant has contracted to perform a covered service.~~

~~(f)]~~ Accept a power of attorney from a homeowner for any purpose, other than to inspect documents as provided by law.

~~[(g)]~~ ***(f) Make any representation, express or implied, that a homeowner cannot or should not contact or communicate with his or her lender or servicer.***

~~[(h)]~~ ***(g) Misrepresent any aspect of any covered service.***

~~[(i)]~~ ***(h) Make any representation, express or implied, that a covered service is affiliated with, associated with or endorsed or approved by:***

(1) The Federal Government, the State of Nevada or any department, agency or political subdivision thereof;

(2) Any governmental plan for homeowner assistance;

(3) Any nonprofit housing counselor agency or program;

(4) The maker, holder or servicer of a homeowner's mortgage loan; or

(5) Any other person, entity or program.

~~[(j)]~~ ***(i) Make any representation, express or implied, about the benefits, performance or efficacy of any covered service unless, at the time the representation is made, the person who performs any covered service, the foreclosure consultant or the loan modification consultant possesses and relies upon competent and reliable evidence which substantiates that the representation is true. As used in this paragraph, "competent and reliable evidence" means tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area that have been conducted and evaluated in an objective manner by persons qualified to do so using procedures generally accepted in the profession to yield accurate and reliable results.***

~~[(k)]~~ ***(j) Obtain or attempt to obtain any waiver of the provisions of NRS 645F.300 to 645F.450, inclusive, and sections 2 to 6, inclusive, of this act or any regulations adopted pursuant thereto. Any such waiver is void and unenforceable.***

2. In addition to any other penalty, a violation of any provision of this section shall be deemed to constitute mortgage lending fraud for the purposes of
NRS 205.372.

Sec. 10. NRS 645F.430 is hereby amended to read as follows:

645F.430 A foreclosure purchaser who engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 to 6, inclusive, of this act,*** including, without limitation, a foreclosure reconveyance, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1

year, or by a fine of not more than $50,000, or by both fine and imprisonment.

Sec. 11. NRS 645F.440 is hereby amended to read as follows:

645F.440 1. In addition to the penalty provided in NRS 645F.430 and except as otherwise provided in subsection 5, if a foreclosure purchaser engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 to 6, inclusive, of this act,*** including, without limitation, a foreclosure reconveyance, the transaction in which the foreclosure purchaser acquired title to the residence in foreclosure may be rescinded by the homeowner within 2 years after the date of the recording of the conveyance.

2. To rescind a transaction pursuant to subsection 1, the homeowner must give written notice to the foreclosure purchaser and a successor in interest to the foreclosure purchaser, if the successor in interest is not a bona fide purchaser, and record that notice with the recorder of the county in which the property is located. The notice of rescission must contain:

(a) The name of the homeowner, the foreclosure purchaser and any successor in interest who holds title to the property; and

(b) A description of the property.

3. Within 20 days after receiving notice pursuant to subsection 2:

(a) The foreclosure purchaser and the successor in interest, if the successor in interest is not a bona fide purchaser, shall reconvey to the homeowner title to the property free and clear of encumbrances which were created subsequent to the rescinded transaction and which are due to the actions of the foreclosure purchaser; and

(b) The homeowner shall return to the foreclosure purchaser any consideration received from the foreclosure purchaser in exchange for the property.

4. If the foreclosure purchaser has not reconveyed to the homeowner title to the property within the period described in subsection 3, the homeowner may bring an action to enforce the rescission in the district court of the county in which the property is located.

5. A transaction may not be rescinded pursuant to this section if the foreclosure purchaser has transferred the property to a bona fide purchaser.

6. As used in this section, "bona fide purchaser" means any person who purchases an interest in a residence in foreclosure from a foreclosure purchaser in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the foreclosure purchaser engaged in conduct which violates subsection 1.

Sec. 12. NRS 645F.450 is hereby amended to read as follows:

645F.450 The rights, remedies and penalties provided pursuant to the provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 to 6, inclusive, of this act*** are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity,

including, without limitation, any criminal penalty that may be imposed pursuant to NRS 645F.430.

Sec. 13. NRS 645F.394 is hereby repealed.

Sec. 14. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

645F.394 Foreclosure consultants, loan modification consultants and persons performing covered services for compensation: Deposits and trust accounts; commingling; records; inspection and audit.

1. All money paid to a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant by a person in full or partial payment of covered services to be performed:

(a) Must be deposited in a separate checking account located in a federally insured depository financial institution or credit union in this State which must be designated a trust account;

(b) Must be kept separate from money belonging to the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant; and

(c) Must not be withdrawn by the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant until the completion of every covered service as agreed upon in the contract for covered services.

2. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall keep records of all money deposited in a trust account pursuant to subsection 1. The records must clearly indicate the date and from whom he or she received money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall balance each separate trust account at least monthly and provide to the Commissioner, on a form provided by the Commissioner, an annual accounting which shows an annual reconciliation of each separate trust account. All such records and money are subject to inspection and audit by the Commissioner and authorized representatives of the Commissioner.

3. Each person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant shall notify the Commissioner of the names of the banks and credit unions in which he or she maintains trust accounts and specify the names of the accounts on forms provided by the Commissioner.

4. As used in this section, "completion of every covered service" means:

(a) Successful results with respect to what the performance of each covered service was intended to yield for the homeowner, as described in the contract for covered services; or

(b) If the performance of one or more covered service has an unsuccessful result with respect to what the performance of that covered service was intended to yield for the homeowner, a showing that every reasonable effort was made, under the particular circumstances, to obtain successful results,

➥ as verified in a written statement provided to the homeowner.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 380.

Bill read second time.

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

Amendment No. 435.

AN ACT relating to energy; revising the prospective expiration of the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program; providing for the expiration of the Solar Energy Systems Incentive Program; revising provisions governing the Solar Program, the Wind Program and the Waterpower Program; ~~[providing that incentives awarded to participants in the Solar Program and Wind Program on or after January 1, 2013, must be awarded through a reverse auction mechanism established by the Public Utilities Commission of Nevada by regulation;]~~ revising provisions governing the amount of incentives which a utility must pay to participants in the Solar Program, the Wind Program and the Waterpower Program; ~~[repealing the requirement that the installation of certain solar energy systems and wind energy systems be deemed a public work under certain circumstances;]~~ **revising provisions relating to net metering;** requiring the **Public Utilities** Commission **of Nevada** to adopt regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program will expire on June 30, 2011. (NRS 701B.400-701B.890; chapter 509, Statutes of Nevada 2007, p. 2999) **Sections 49-51 and 54** of this bill revise the prospective expiration dates of these programs and provide that the Wind Program, the Waterpower Program and the Solar Energy Systems Incentive Program will expire on December 31, 2021.

Section 13 of this bill provides that, for the period beginning July 1, 2010, and ending December 31, 2012, a utility is not required to award an incentive under the Solar Program if the payment of the incentive would cause the total amount of incentives paid by all utilities for the installation of solar energy systems and distributed generation systems would exceed $140,000,000. **Section 26** of this bill prohibits the Public Utilities Commission of Nevada from authorizing the payment of an incentive for the installation of a wind energy system under the Wind Program if, for the same period, the amount of

the incentive would cause the total amount of incentives paid by all utilities for the installation of wind energy systems and distributed generation systems to exceed $30,000,000.

~~[Section 52 of this bill repeals the requirement that the installation of certain solar energy systems and wind energy systems be deemed public works for certain purposes.]~~

Sections 1, 3-12, 14-25, 27-43 and 47 of this bill become effective on January 1, 2013, and revise provisions governing the Solar Program, the Wind Program and the Waterpower Program. ~~[Section 5 provides that incentives for participation in the Wind Program must be awarded pursuant to a reverse auction mechanism established by the Commission by regulation.]~~ **Section 5** ~~[also]~~ provides limits on the total amount of an incentive which may be awarded to a participant in the Wind Program. **Section 5** additionally provides that a utility is not required to award an incentive if such an award would cause the total amount of incentives awarded pursuant to the Wind Program, the Solar Program and the Waterpower Program in a program year by all utilities in this State to exceed one-half of 1 percent of the total revenues received by all utilities in this State from retail customers during the immediately preceding program year. **Section 9** imposes the same requirements for the payment of incentives pursuant to the Solar Program. **Section 37** provides the same cap for the award of incentives pursuant to the Waterpower Program. **Sections 14 and 29** provide that to be eligible for an incentive under the Solar Program or Wind Program, a renewable energy system must meet the requirements for net metering. **Sections 11, 22 and 35 expand the Solar Program, Wind Program and Waterpower Program to include Indian tribes and tribal organizations.**

Existing law requires a utility to offer net metering until the cumulative capacity of all net metering systems within the service area of the utility is equal to 1 percent of the utility's peak capacity. (NRS 704.773) **Section 45** of this bill requires a utility to offer net metering until the cumulative capacity of all net metering systems in this State is equal to ~~[1]~~ **3** percent of the total peak capacity of all utilities in this State.

~~[The portfolio standard requires a provider of electric service to generate, acquire or save a certain amount of energy from portfolio energy systems or energy efficiency measures. Not more than 25 percent of the electricity a provider generates, acquires or saves to comply with the portfolio standard may be based on energy efficiency measures. (NRS 704.7821) Section 46 of this bill provides that any surplus portfolio energy credits derived from energy efficiency measures in 1 year may be applied to reduce a deficiency in portfolio energy credits in future years under certain circumstances.]~~

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

Section 1. 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 and the Wind Energy Systems ~~[Demonstration]~~ ***Incentive*** Program created pursuant to 701B.580, 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 Programs; and

(3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the Programs; 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. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 2. 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 and the Wind Energy Systems Incentive Program created pursuant to 701B.580, 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 Programs; and~~

~~(3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the Programs; and~~

~~(b) Information~~**]** ***, 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. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 3. Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections 4, 5 and 6 of this act.

Sec. 4. ***The provisions of this section and NRS 701B.410 to 701B.650, inclusive, and section 5 of this act apply to the Wind Energy Systems Incentive Program.***

Sec. 5. ***1. The*** ~~*[incentives awarded by a utility to applicants for participation in the Wind Program must be awarded through a reverse auction mechanism established by the Commission by regulation. The regulations establishing the reverse auction mechanism must include, without limitation, requirements that:*~~

~~*(a) The opening of bids by the utility be done in a public setting; and*~~

~~*(b) The Regulatory Operations Staff of the Commission and a representative of the Bureau of Consumer Protection in the Office of the Attorney General attend the bid opening and attest to the results.]*~~ ***Commission shall adopt regulations establishing an incentive for participation in the Wind Program.***

2. Each utility shall determine the number and the timing of application cycles during a program year but must conduct at least one application cycle for each category during each program year. ~~*[A utility shall award incentives during an application cycle to applicants in reverse order of requested incentive amounts.]*~~

3. The total amount of an incentive awarded to an applicant must not exceed the lesser of 50 percent of the total construction costs set forth in the application submitted by the applicant or 50 percent of the weighted average cost of actual construction costs for wind energy systems that received an incentive during the immediately preceding program year. Each utility shall publish the weighted average cost of actual construction costs for wind energy systems that received an incentive for a program year not later than January 31 of the following program year.

4. A utility is not required to award an incentive if such an award would cause the total amount of incentives awarded in a program year to participants in the Wind Program, the Solar Energy Systems Incentive Program created by NRS 701B.240 and the Waterpower Energy Systems Incentive Program created by NRS 701B.820 to exceed one-half of 1 percent of the total revenues received by all utilities in this State from retail customers in this State during the immediately preceding program year. For each program year, the Commission shall determine the capacity each utility must allocate to each program.

~~*[5. As used in this section, "reverse auction mechanism" means a process for the awarding of incentives in which bids for incentives from the Wind Program are solicited by a utility in the form of the proposed total incentive amount for a wind energy system expressed in dollars per watt of capacity.]*~~

Sec. 6. ***The provisions of this section and NRS 701B.710 to 701B.880, inclusive, apply to the Waterpower Energy Systems Incentive Program.***

Sec. 7. NRS 701B.100 is hereby amended to read as follows:

701B.100 "Program year" means ~~[the period of July 1 to June 30 of the following]~~ ***a calendar*** year.

Sec. 8. NRS 701B.200 is hereby amended to read as follows:

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, including, without limitation, regulations that ~~[:~~

~~1. Establish the type of incentives available to participants in the Solar Program and the level or amount of those incentives, except that the level or amount of an incentive available in a particular program year must not be based upon whether the incentive is for unused capacity reallocated from a~~

~~past program year pursuant to paragraph (b) of subsection 2 of NRS 701B.260. The regulations must provide that the level or amount of the incentives must decline over time as the cost of solar energy systems and distributed generation systems decline.~~

~~2. Establish~~**]** ***establish*** the requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

[~~(a)~~**]** ***1.*** A detailed plan for advertising the Solar Program;

[~~(b)~~**]** ***2.*** A detailed budget and schedule for carrying out and administering the Solar Program;

[~~(c)~~**]** ***3.*** A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;

[~~(d)~~**]** ***4.*** A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;

[~~(e)~~**]** ***5.*** A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and

[~~(f)~~**]** ***6.*** Any other information required by the Commission.

~~**[**3. Authorize a utility to recover the reasonable costs incurred in carrying out and administering the installation of distributed generation systems pursuant to paragraph (b) of subsection 1 of NRS 701B.260.**]**~~

Sec. 9. NRS 701B.220 is hereby amended to read as follows:

701B.220 ***1.*** In adopting regulations for the Solar Program, ~~*[1. The incentives awarded by a utility to applicants for participation in the Solar Program must be awarded through a reverse auction mechanism established by]*~~ the Commission shall adopt regulations establishing an incentive for participation in the Solar Program. ~~*[by regulation. The regulations establishing the reverse auction mechanism must include, without limitation, requirements that:*~~

~~*(a) The opening of bids by the utility be done in a public setting; and*~~

~~*(b) The Regulatory Operations Staff of the Commission and a representative of the Bureau of Consumer Protection in the Office of the Attorney General attend the bid opening and attest to the results.]*~~

2. Each utility shall determine the number and the timing of application cycles during a program year but must conduct at least one application cycle for each category during each program year. ~~*[A utility shall award incentives during an application cycle to applicants in reverse order of requested incentive amounts, except that not less than 25 percent of the total amount of incentives awarded during a program year must be awarded to private residential property and small business property applicants.]*~~

3. The total amount of an incentive awarded to an applicant must not exceed the lesser of 50 percent of the total construction costs set forth in the application submitted by the applicant or 50 percent of the weighted average cost of actual construction costs for solar energy systems that received an incentive during the immediately preceding program year. Each utility shall publish the weighted average cost of actual construction costs for solar energy systems that received an incentive for a program year not later than January 31 of the following program year.

4. A utility is not required to award an incentive if such an award would cause the total amount of incentives awarded in a program year to participants in the Solar Program, the Wind Energy Systems Incentive Program created by NRS 701B.580 and the Waterpower Energy Systems Incentive Program created by NRS 701B.820 to exceed one-half of 1 percent of the total revenues received by all utilities in this State from retail customers in this State during the immediately preceding program year. For each program year, the Commission shall determine the capacity each utility must allocate to each program.

~~[5. As used in this section, "reverse auction mechanism" means a process for the awarding of incentives in which bids for incentives from the Solar Program are solicited by a utility in the form of the proposed total incentive amount for a solar energy system expressed in dollars per watt of capacity.]~~

Sec. 10. NRS 701B.230 is hereby amended to read as follows:

701B.230 1. Each year on or before the date established by the Commission, a utility shall file with the Commission its annual plan for carrying out and administering the Solar Program within its service area for a program year. ***A utility may file the plan as part of a combined annual plan for carrying out and administering the Solar Program, the Wind Energy Systems Incentive Program created by NRS 701B.580 and the Waterpower Energy Systems Incentive Program created by NRS 701B.820 in its service area for the program year.***

2. The Commission shall:

(a) Review each annual plan filed by a utility for compliance with the requirements established by regulation of the Commission; and

(b) Approve each annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Solar Program.

3. A utility shall carry out and administer the Solar Program within its service area in accordance with the utility's annual plan as approved by the Commission.

4. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, ~~[and administrative costs,]~~ that are associated with carrying out and administering the Solar Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 11. NRS 701B.240 is hereby amended to read as follows:

701B.240 1. The Solar Energy Systems Incentive Program is hereby created.

2. The Solar Program ~~[must have]~~ ***is limited to*** ~~[three]~~ ***five*** categories ***of participants*** as follows:

(a) School property;

(b) Public and other property; ~~[and]~~

(c) Private residential property ***;***

(d) Property owned by an Indian tribe or tribal organization; and ~~[small]~~

(e) Small business property.

3. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.210;

(b) Submit an application to a utility and be selected by the ~~[Commission]~~ ***utility*** for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.255;

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands-on experience of the solar energy system by the public.

Sec. 12. NRS 701B.255 is hereby amended to read as follows:

701B.255 1. After reviewing an application submitted pursuant to NRS 701B.250 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, a utility may ***, in accordance with the provisions of NRS 701B.220 and any regulations adopted pursuant thereto,*** select the applicant for participation in the Solar Program.

2. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

3. After the utility selects an applicant to participate in the Solar Program, the utility may approve the solar energy system proposed by the applicant. Upon the utility's approval of the solar energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the solar energy system is eligible; and

(b) The applicant may install and energize the solar energy system.

4. ***An applicant for participation in the Solar Program in the category of private residential property*** ~~[and]~~ ***, property owned by an Indian tribe or tribal organization or small business property must complete the installation and energizing of the solar energy system within 12 months after issuance of the notice required by paragraph (a) of subsection 3,***

unless the utility grants the applicant an extension of the time within which to complete the installation and energizing of the solar energy system for a period not to exceed an additional [12] 6 months. If the applicant has not completed the installation and energizing of his or her solar energy system within the time provided in this subsection, the notice of approval is void, and the applicant loses his or her right to receive the incentive payment provided in the notice. The applicant may submit a new application and may receive an incentive payment pursuant to a new notice of approval issued by the utility for a new application cycle if the solar energy system has not been installed and energized before the date of issuance of the new notice of approval. The incentive for which the applicant is eligible is the lesser of the average incentive awarded to participants in the applicant's category in the current program year or the amount of the incentive which the applicant was authorized to receive pursuant to the original notice of approval.

5. An applicant for participation in the Solar Program in the category of school property or public and other property must complete the installation and energizing of the solar energy system within 18 months after issuance of the notice required by paragraph (a) of subsection 3, unless the utility grants the applicant an extension of the time within which to complete the installation and energizing of the solar energy system for a period not to exceed an additional 12 months. If the applicant has not completed the installation and energizing of his or her solar energy system within the time provided in this subsection, the notice of approval is void, and the applicant loses his or her right to receive the incentive payment provided in the notice. The applicant may submit a new application and may receive an incentive payment pursuant to a new notice of approval issued by the utility for a new application cycle if the solar energy system has not been installed and energized before the date of issuance of the new notice of approval. The incentive for which the applicant is eligible is the incentive in effect at the time the new notice of approval is issued.

6. Upon the completion of the installation and energizing of the solar energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

[5.**]** ***7.*** Upon receipt of the incentive claim form and verification that the solar energy system is properly connected, the utility shall issue an incentive payment to the participant.

[6. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Solar Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Solar Program or does not complete the installation of the solar energy system within 12 months after the date on which the applicant is selected for

~~participation in the Solar Program. An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the solar energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the solar energy system.~~]

Sec. 13. NRS 701B.260 is hereby amended to read as follows:

701B.260 1. Except as otherwise provided in this section, the Commission [~~may approve, for:~~

~~(a) The program year beginning July 1, 2009,~~] ***:***

(a) May approve solar energy systems [~~:~~

~~(1) Totaling 2,000 kilowatts~~] ***totaling not more than 200 megawatts*** of capacity for [~~school property;~~

~~(2) Totaling 760 kilowatts of capacity for public and other property; and~~

~~(3) Totaling 1,000 kilowatts of capacity for private residential property and small business property; and~~

~~(b) Each program year for the period beginning July 1, 2010, and ending on June 30, 2021, an additional 9 percent of the sum of the total allocated capacities of all the categories described in paragraph (a) which must be approved for distributed generation systems.~~

~~2. If~~] ***the State;***

(b) Shall prescribe the capacity ***which is*** allocated to [~~any~~] ***each service area within the State for a program year;***

(c) Shall prescribe the capacity which is allocated to each category for a program year [~~is not fully subscribed by participants in that category, the Commission may, in any combination it deems appropriate:~~

~~(a) Reallocate any of the unused capacity in that category to any of the other categories; or~~

~~(b) Reallocate any of the unused capacity in that category to future program years within the same category.~~

~~3. To promote the installation of solar energy systems on as many school properties as possible, the Commission may not approve for use in the Solar Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed on school property on or after July 1, 2007, unless the Commission determines that approval of a solar energy system with a greater generating capacity is more practicable for a particular school property.~~

~~4. The Commission shall not authorize the payment of an~~] ***; and***

(d) Shall establish requirements for the capacity of solar energy systems which may be approved for each category, including, without limitation, the minimum and maximum generating capacity of a solar energy system installed on property other than residential property, which must be determined based on the nature of the business and property for which the solar energy system is installed.

2. A utility is not required to award an incentive for the installation of a solar energy system or distributed generation system if ~~[~~:

~~(a) For]~~ ***, for*** the period beginning July 1, 2010, and ending ~~[June 30, 2013,]~~ ***December 31, 2012,*** inclusive, the payment of the incentive would cause the total amount of incentives paid by ~~[a utility]~~ ***all utilities*** for the installation of solar energy systems and distributed generation systems to exceed ~~[$78,260,000; and~~

~~(b) For the period beginning July 1, 2010, and ending June 30, 2021, the payment of the incentive would cause the total amount of incentives paid by a utility for the installation of solar energy systems and distributed generation systems to exceed $255,270,000.]~~ ***$140,000,000.***

Sec. 14. NRS 701B.280 is hereby amended to read as follows:

701B.280 ~~[If]~~ ***To be eligible for an incentive through the Solar Program,*** a solar energy system ~~[used by a participant in the Solar Program meets]~~ ***must meet*** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ ***for participation*** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 15. NRS 701B.350 is hereby amended to read as follows:

701B.350 1. The Renewable Energy School Pilot Program is hereby created. The goal of the Program is to encourage the development of and determine the feasibility for the integration of renewable energy systems on school properties.

2. The Commission shall adopt regulations for the Program. Such regulations shall include, but not be limited to:

(a) A time frame for implementation of the Program;

(b) The allowed renewable energy systems and combinations of such renewable energy systems on school property;

(c) The amount of capacity that may be installed at each school property that participates in the Program;

(d) A process by which a school district may apply for participation in the Program;

(e) Requirements for participation by a school district;

(f) The type of transactions allowed between a renewable energy system generator, a school district and a utility;

(g) Incentives which may be provided to a school district or school property to encourage participation; and

(h) Such other parameters as determined by the Commission and are consistent with the development of renewable energy systems at school properties.

3. The Program shall be limited to 10 school properties. Not more than 6 school properties from any one school district may participate in the Program.

4. The Commission shall adopt the regulations necessary to implement the Program not later than March 1, 2008.

5. The Commission shall prepare a report detailing the results of the Program and shall submit the report to the Legislature by December 1, 2008.

6. As used in this section:

(a) "Commission" means the Public Utilities Commission of Nevada.

(b) "Owned, leased or occupied" includes, without limitation, any real property, building or facilities which are owned, leased or occupied under a deed, lease, contract, license, permit, grant, patent or any other type of legal authorization.

(c) "Renewable energy system" has the meaning ascribed to it in NRS 704.7815.

(d) "School district" has the meaning ascribed to it in NRS 395.0075.

(e) "School property" means any real property, building or facilities which are owned, leased or occupied by a public school as defined in NRS 385.007.

(f) "Utility" ~~[has the meaning ascribed to it in NRS 701B.180.]~~ ***means a public utility that supplies electricity in this State.***

Sec. 16. NRS 701B.410 is hereby amended to read as follows:

701B.410 As used in NRS ~~[701B.400]~~ ***701B.410*** to 701B.650, inclusive, ***and sections 4 and 5 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 701B.420 to 701B.560, inclusive, have the meanings ascribed to them in those sections.

Sec. 17. NRS 701B.430 is hereby amended to read as follows:

701B.430 "Applicant" means a person who is applying to participate in the Wind ~~[Demonstration]~~ Program.

Sec. 18. NRS 701B.440 is hereby amended to read as follows:

701B.440 "Category" means one of the categories of participation in the Wind ~~[Demonstration]~~ Program as set forth in NRS 701B.580.

Sec. 19. NRS 701B.470 is hereby amended to read as follows:

701B.470 "Participant" means a person who has been selected by a utility to participate in the Wind ~~[Demonstration]~~ Program.

Sec. 20. NRS 701B.490 is hereby amended to read as follows:

701B.490 "Program year" means ~~[the period of July 1 to June 30 of the following]~~ ***a calendar*** year.

Sec. 21. NRS 701B.550 is hereby amended to read as follows:

701B.550 "Wind ~~[Demonstration]~~ Program" or "Program" means the Wind Energy Systems ~~[Demonstration]~~ ***Incentive*** Program created by NRS 701B.580.

Sec. 22. NRS 701B.580 is hereby amended to read as follows:

701B.580 1. The Wind Energy Systems ~~[Demonstration]~~ ***Incentive*** Program is hereby created.

2. The Program must have ~~[four]~~ ***six*** categories as follows:

(a) School property;

(b) Other public property;

(c) Private residential property ~~[and small]~~ ***;***

(d) Small business property;

(e) Property owned by an Indian tribe or tribal organization; and

~~[(d)]~~ ***(f)*** Agricultural property.

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.590;

(b) ***Submit an application for participation in the Program to a utility;***

(c) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

~~[(c)]~~ ***(d)*** If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 23. NRS 701B.590 is hereby amended to read as follows:

701B.590 The Commission shall adopt regulations necessary to carry out the provisions of ~~[the Wind Energy Systems Demonstration Program Act,]~~ ***NRS 701B.410 to 701B.650, inclusive, and sections 4 and 5 of this act,*** including, without limitation, regulations that establish:

1. The ~~[capacity goals for the Program, which must be designed to meet the goal of the Legislature of the installation of not less than 5 megawatts of wind energy systems in this State by 2012 and the goals for each category of the Program.~~

~~2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.~~

~~3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.]~~ ***qualifications and requirements an applicant must meet to be eligible to participate in the Wind Program in each particular category of:***

(a) School property;

(b) Other public property;

(c) Private residential property ~~*[and small]*~~ ***;***

(d) Small business property;

(e) Property owned by an Indian tribe or tribal organization; and

~~*[(d)]*~~ ***(f) Agricultural property.***

2. The requirements for a utility's annual plan for carrying out and administering the Wind Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Program;

(b) A detailed budget and schedule for carrying out and administering the Program;

(c) A detailed account of the administrative processes and forms that are necessary to apply for and participate in the Program;

(d) A detailed account of the procedures that will be used for inspection of a participant's wind energy system and verification of a participant's compliance with the Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and

(f) Any other information required by the Commission.

Sec. 24. NRS 701B.600 is hereby amended to read as follows:

701B.600 1. Each utility shall carry out and administer the Wind ~~[~~Demonstration~~]~~ Program within its service area in accordance with its annual plan as approved by the Commission pursuant to NRS 701B.610.

2. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives~~,~~ ***~~[and administrative costs,]~~*** that are associated with carrying out and administering the Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 25. NRS 701B.610 is hereby amended to read as follows:

701B.610 1. ~~[~~On or before February 1, 2008, and on or before February 1 of each year thereafter,~~]~~ ***Each year on or before a date established by the Commission,*** each utility shall file with the Commission its annual plan for carrying out and administering the Wind ~~[~~Demonstration~~]~~ Program within its service area for the following program year. ***A utility may file the plan as part of a combined annual plan for carrying out and administering the Wind Program, the Solar Energy Systems Incentive Program created by NRS 701B.240 and the Waterpower Energy Systems Incentive Program created by NRS 701B.820 in its service area for the following program year.***

2. ~~[~~On or before July 1, 2008, and on or before July 1 of each year thereafter,~~]~~ ***Within 150 days after a utility files its annual plan for administering the Wind Program,*** the Commission shall:

(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

Sec. 26. NRS 701B.615 is hereby amended to read as follows:

701B.615 1. An applicant who wishes to participate in the Wind ~~[~~Demonstration~~]~~ Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the wind energy system proposed by the applicant. Upon the utility's approval of the wind energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the wind energy system is eligible; and

(b) The applicant may install and energize the wind energy system.

5. Upon the completion of the installation and energizing of the wind energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the wind energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Wind ~~[Demonstration]~~ Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of the wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the wind energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the wind energy system.

8. The Commission shall not authorize the payment of an incentive for the installation of a wind energy system if, for the period beginning July 1, 2010, and ending December 31, 2012, inclusive, the payment of the incentive would cause the total amount of incentives paid by all utilities for the installation of wind energy systems and distributed generation systems to exceed $30,000,000.

Sec. 27. NRS 701B.615 is hereby amended to read as follows:

701B.615 1. An applicant who wishes to participate in the Wind Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the wind energy system proposed by the applicant. Upon the utility's approval of the wind energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the wind energy system is eligible; and

(b) The applicant may install and energize the wind energy system.

5. ***An applicant for participation in the Wind Program must complete the installation and energizing of the wind energy system within 12 months after issuance of the notice required by paragraph (a) of subsection 4 [.] , unless the utility grants the applicant an extension of the time within which to complete the installation and energizing of the wind energy system for a period not to exceed an additional 6 months. If the applicant has not completed the installation and energizing of his or her wind energy system within the time provided in this subsection, the notice of approval is void, and the applicant loses his or her right to receive the incentive payment provided in the notice. The applicant may submit a new application and may receive an incentive payment pursuant to a new notice of approval issued by the utility for a new application cycle if the wind energy system has not been installed and energized before the date of issuance of the new notice of approval. The incentive for which the applicant is eligible is the lesser of the average incentive awarded to participants in the applicant's category in the current program year or the amount of the incentive which the applicant was authorized to receive pursuant to the original notice of approval.***

6. Upon the completion of the installation and energizing of the wind energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

~~[6.]~~ ***7.*** Upon receipt of the incentive claim form and verification that the wind energy system is properly connected, the utility shall issue an incentive payment to the participant.

~~[7.]~~ ***8.*** The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Wind Program ***.*** ~~[, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of the wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the wind energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the wind energy system.~~

~~8. The Commission shall not authorize the payment of an incentive for the installation of a wind energy system if, for the period beginning July 1, 2010, and ending December 31, 2012, inclusive, the payment of the incentive would cause the total amount of incentives paid by all utilities for the installation of wind energy systems and distributed generation systems to exceed $30,000,000.]~~

Sec. 27.5. **NRS 701B.625 is hereby amended to read as follows:**

701B.625 1. The installation of a wind energy system on property owned or occupied by a public body pursuant to NRS ~~[701B.400]~~ ***701B.410*** to 701B.650, inclusive, ***and sections 4 and 5 of this act*** shall be deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the wind energy system is financed in whole or in part by public money.

2. The amount of any incentive issued by a utility relating to the installation of a wind energy system on property owned or occupied by a public body may not be used to reduce the cost of the project to an amount which would exempt the project from the requirements of NRS 338.020 to 338.090, inclusive.

3. As used in this section, "public body" means the State or a county, city, town, school district or any public agency of this State or its political subdivisions.

Sec. 28. NRS 701B.640 is hereby amended to read as follows:

701B.640 1. After a participant installs a wind energy system included in the Wind ~~[Demonstration]~~ Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 and 704.78213 equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio energy credits issued for a wind energy system installed pursuant to the Wind ~~[Demonstration]~~ Program must be assigned to and become the property of the utility administering the Program.

Sec. 29. NRS 701B.650 is hereby amended to read as follows:

701B.650 ~~[If]~~ ***To be eligible for an incentive through the Wind Program,*** a wind energy system ~~[used by a participant in the Wind Program meets]~~ ***must meet*** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ ***for participation*** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 30. NRS 701B.710 is hereby amended to read as follows:

701B.710 As used in NRS ~~[701B.700]~~ ***701B.710*** to 701B.880, inclusive, ***and section 6 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 701B.720 to 701B.810, inclusive, have the meanings ascribed to them in those sections.

Sec. 31. NRS 701B.720 is hereby amended to read as follows:

701B.720 "Applicant" means a person who is applying to participate in the Waterpower ~~[Demonstration]~~ Program.

Sec. 32. NRS 701B.740 is hereby amended to read as follows:

701B.740 "Participant" means a person who has been selected by a utility to participate in the Waterpower ~~[Demonstration]~~ Program.

Sec. 33. NRS 701B.760 is hereby amended to read as follows:

701B.760 "Program year" means ~~[the period of July 1 to June 30 of the following]~~ ***a calendar*** year.

Sec. 34. NRS 701B.810 is hereby amended to read as follows:

701B.810 "Waterpower ~~[Demonstration]~~ Program" or "Program" means the Waterpower Energy Systems ~~[Demonstration]~~ ***Incentive*** Program created by NRS 701B.820.

Sec. 35. NRS 701B.820 is hereby amended to read as follows:

701B.820 1. The Waterpower Energy Systems ~~[Demonstration]~~ ***Incentive*** Program is hereby created.

2. The Waterpower ~~[Demonstration]~~ Program is created for ~~[agricultural]~~ ***:***

(a) Indian tribes and tribal organizations that are customers of a utility; and

(b) Agricultural uses.

3. To be eligible to participate in the Waterpower ~~[Demonstration]~~ Program, a person must meet the qualifications established pursuant to subsection 4, apply to a utility and be selected by the utility for inclusion in the Waterpower ~~[Demonstration]~~ Program.

4. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower ~~[Demonstration]~~ Program.

Sec. 36. NRS 701B.830 is hereby amended to read as follows:

701B.830 Each utility is responsible for the administration and delivery of the Waterpower ~~[Demonstration]~~ Program as approved by the Commission.

Sec. 37. NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The capacity goals for the ***Waterpower*** Program, which must be designed to meet the goal of the Legislature of the installation of not less than 500 kilowatts of waterpower energy systems in this State by ~~[2012]~~ ***2016*** and the goals for each category of the Program.

2. A system of incentives that are based on rebates that decline as the capacity goals for the ***Waterpower*** Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings. ***A utility is not required to award an incentive if such an award would cause the total amount of incentives awarded in a program year to participants in the Waterpower Program, the Solar Energy Systems Incentive Program created by NRS 701B.240 and the Wind Energy Systems Incentive Program created by NRS 701B.580 to exceed one-half of 1 percent of the total revenues received by all utilities in this State from retail customers in this State during the immediately preceding program***

year. For each program year, the Commission shall determine the capacity each utility must allocate to each program.

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

Sec. 38. NRS 701B.850 is hereby amended to read as follows:

701B.850 1. ~~[On or before February 21, 2008, and on or before February 1 of each subsequent year,]~~ ***Each year on or before a date established by the Commission,*** each utility shall file with the Commission ~~[for approval an]~~ ***its*** annual plan for ~~[the administration and delivery of]~~ ***carrying out and administering*** the Waterpower ~~[Demonstration]~~ Program ***in its service area*** for the ***following*** program year ***.*** ~~[beginning July 1, 2008, and each subsequent year thereafter.]~~ ***A utility may file the plan as part of a combined annual plan for carrying out and administering the Waterpower Program, the Solar Energy Systems Incentive Program created by NRS 701B.240 and the Wind Energy Systems Incentive Program created by NRS 701B.580 in its service area for the following program year.***

2. ~~[On or before July 1, 2008, and on or before each July 1 of each subsequent year,]~~ ***Within 150 days after a utility files its annual plan for administering the Waterpower Program,*** the Commission shall ~~[review]~~ ***:***

(a) Review the annual plan for compliance with the requirements ~~[set forth]~~ ***established*** by regulation ~~[of the Commission.]~~ ***; and***

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

Sec. 39. NRS 701B.860 is hereby amended to read as follows:

701B.860 Each utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, ~~*[and administrative costs,]*~~ that are associated with carrying out and administering the Waterpower ~~[Demonstration]~~ Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 40. NRS 701B.865 is hereby amended to read as follows:

701B.865 1. An applicant who wishes to participate in the Waterpower ~~[Demonstration]~~ Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the waterpower energy system proposed by the applicant. Upon the utility's approval of the waterpower energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the waterpower energy system is eligible; and

(b) The applicant may construct the waterpower energy system.

5. Upon the completion of the construction of a waterpower energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the waterpower energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Waterpower ~~[~~Demonstration~~]~~ Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the construction of the waterpower energy system within 12 months after the date on which the applicant is selected for participation in the Program. An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the construction of the waterpower energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the construction of the waterpower energy system.

Sec. 41. NRS 701B.870 is hereby amended to read as follows:

701B.870 1. After a participant installs a waterpower energy system included in the Waterpower ~~[~~Demonstration~~]~~ Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 and 704.78213 equal to the actual or estimated kilowatt-hour production of the waterpower energy system of the participant.

2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower ~~[~~Demonstration~~]~~ Program are assigned to and become the property of the utility administering the Program.

Sec. 42. NRS 701B.880 is hereby amended to read as follows:

701B.880 If the waterpower energy system used by a participant in the Waterpower ~~[~~Demonstration~~]~~ Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 43. NRS 701B.924 is hereby amended to read as follows:

701B.924 1. The State Public Works Board shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this

section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems ~~[~~Demonstration~~]~~ ***Incentive*** Program created by NRS 701B.580;

(4) The Waterpower Energy Systems ~~[~~Demonstration~~]~~ ***Incentive*** Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

2. The board of trustees of each school district shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems ~~[~~Demonstration~~]~~ ***Incentive*** Program created by NRS 701B.580;

(4) The Waterpower Energy Systems ~~[~~Demonstration~~]~~ ***Incentive*** Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

3. The Board of Regents of the University of Nevada shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems ~~[Demonstration]~~ ***Incentive*** Program created by NRS 701B.580;

(4) The Waterpower Energy Systems ~~[Demonstration]~~ ***Incentive*** Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:

(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS;

(b) Provisions requiring that each contractor and subcontractor employed on each such project:

(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project; or

(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained

persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;

(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.

Sec. 44. NRS 701B.924 is hereby amended to read as follows:

701B.924 1. The State Public Works Board shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in ~~[~~one or more of the following programs:

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2)~~] ***:***

(1) The Renewable Energy School Pilot Program created by NRS 701B.350;

~~[~~(3) The Wind Energy Systems Incentive Program created by NRS 701B.580;

~~(4) The Waterpower Energy Systems Incentive Program created by NRS 701B.820; or~~

~~(5)~~] ***or***

(2) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

2. The board of trustees of each school district shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in ~~[one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2)~~**]** ***:***

(1) The Renewable Energy School Pilot Program created by NRS 701B.350;

~~[(3) The Wind Energy Systems Incentive Program created by NRS 701B.580;~~

~~(4) The Waterpower Energy Systems Incentive Program created by NRS 701B.820; or~~

~~(5)~~**]** ***or***

(2) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

3. The Board of Regents of the University of Nevada shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in ~~[one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2)~~] ***:***

(1) The Renewable Energy School Pilot Program created by NRS 701B.350;

~~[(3) The Wind Energy Systems Incentive Program created by NRS 701B.580;~~

~~(4) The Waterpower Energy Systems Incentive Program created by NRS 701B.820; or~~

~~(5)~~] ***or***

(2) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:

(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS;

(b) Provisions requiring that each contractor and subcontractor employed on each such project:

(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project; or

(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;

(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.

Sec. 45. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems ***in this State*** is equal to ~~[1.]~~ ***3*** percent of the ~~[utility's]~~ ***total*** peak capacity ~~[.]~~ ***of all utilities in this State.***

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than 100 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than 100 kilowatts, the utility:

(a) May require the customer-generator to install at its own cost:

(1) An energy meter that is capable of measuring generation output and customer load; and

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) Except as otherwise provided in paragraph (c), may charge the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

➥ At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

4. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

(1) Metering equipment;

(2) Net energy metering and billing; and

(3) Interconnection,

➥ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 46. ~~[NRS 704.7828 is hereby amended to read as follows:~~

~~704.7828 1. The Commission shall adopt regulations to carry out and enforce the provisions of NRS 704.7801 to 704.7828, inclusive. The regulations adopted by the Commission may include any enforcement mechanisms which are necessary and reasonable to ensure that each provider of electric service complies with its portfolio standard. Such enforcement mechanisms may include, without limitation, the imposition of administrative fines.~~

~~2. If a provider exceeds the portfolio standard for any calendar year, the Commission shall authorize the provider to carry forward to subsequent calendar years for the purpose of complying with the portfolio standard for those subsequent calendar years any excess kilowatt-hours of electricity that the provider generates, acquires or saves from portfolio energy systems or efficiency measures. *Any surplus portfolio energy credits derived from energy efficiency measures may be applied to reduce a deficiency in portfolio energy credits caused by the inability of a developer of a renewable energy system that has contracted to sell renewable energy to the provider to construct and energize its renewable energy system within the time or in the amount agreed to by the developer and the provider.*~~

~~3. If a provider does not comply with its portfolio standard for any calendar year and the Commission has not exempted the provider from the requirements of its portfolio standard pursuant to NRS 704.7821 or 704.78213, the Commission:~~

~~(a) Shall require the provider to carry forward to subsequent calendar years the amount of the deficiency in kilowatt-hours of electricity that the provider does not generate, acquire or save from portfolio energy systems or efficiency measures during a calendar year in violation of its portfolio standard; and~~

~~(b) May impose an administrative fine against the provider or take other administrative action against the provider, or do both.~~

~~4. The Commission may impose an administrative fine against a provider based upon:~~

~~(a) Each kilowatt-hour of electricity that the provider does not generate, acquire or save from portfolio energy systems or efficiency measures during a calendar year in violation of its portfolio standard; or~~

~~(b) Any other reasonable formula adopted by the Commission.~~

~~5. In the aggregate, the administrative fines imposed against a provider for all violations of its portfolio standard for a single calendar year must not exceed the amount which is necessary and reasonable to ensure that the provider complies with its portfolio standard, as determined by the Commission.~~

~~6. If the Commission imposes an administrative fine against a utility provider:~~

~~(a) The administrative fine is not a cost of service of the utility provider;~~

~~(b) The utility provider shall not include any portion of the administrative fine in any application for a rate adjustment or rate increase; and~~

~~(c) The Commission shall not allow the utility provider to recover any portion of the administrative fine from its retail customers.~~

~~7. All administrative fines imposed and collected pursuant to this section must be deposited in the State General Fund.~~**] (Deleted by amendment.)**

Sec. 47. NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(II) The Renewable Energy School Pilot Program created by NRS 701B.350;

(III) The Wind Energy Systems ~~[Demonstration]~~ ***Incentive*** Program created by NRS 701B.580; or

(IV) The Waterpower Energy Systems ~~[Demonstration]~~ ***Incentive*** Program created by NRS 701B.820.

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Nevada Energy Commissioner and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;

(2) Fuel cells;

(3) Geothermal energy;

(4) Solar energy;

(5) Waterpower; and

(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 48. NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in ~~[one or more of the following programs:~~

~~(I) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(II) The~~] ***the*** Renewable Energy School Pilot Program created by NRS 701B.350 **.** ~~[;~~

~~(III) The Wind Energy Systems Incentive Program created by NRS 701B.580; or~~

~~(IV) The Waterpower Energy Systems Incentive Program created by NRS 701B.820.~~]

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Nevada Energy Commissioner and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;
(2) Fuel cells;
(3) Geothermal energy;
(4) Solar energy;
(5) Waterpower; and
(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 49. Section 113 of chapter 509, Statutes of Nevada 2007, at page 2999, is hereby amended to read as follows:

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.

(5) For section 48 of this act, on January 1, 2010.

(6) For section 50 of this act, on January 1, 2011.

2. Sections ~~[62 to 106,]~~ ***63 to 75, inclusive, 77 to 82, inclusive, 85, 86, 88 to 94, inclusive, and 95 to 105,*** inclusive, of this act expire by limitation on ~~[June 30, 2011.]~~ ***December 31, 2021.***

Sec. 50. Section 13 of chapter 246, Statutes of Nevada 2009, at page 1002, is hereby amended to read as follows:

Sec. 13. 1. This act becomes effective on July 1, 2009.

2. Sections 2 and 3 of this act expire by limitation on ~~[June 30, 2011.]~~ ***December 31, 2021.***

Sec. 51. Section 21 of chapter 321, Statutes of Nevada 2009, at page 1410, is hereby amended to read as follows:

Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.

2. Sections 1.51, 1.85, 1.87, 1.92, ~~[1.93,]~~ 1.95, 4.3 ***to 7, inclusive, 7.3*** to 9, inclusive, and 19.4 of this act expire by limitation on ~~[June 30, 2011.~~

~~3. Sections 1.53 and 19.8 of this act become effective on July 1, 2011.]~~ ***December 31, 2021.***

Sec. 52. 1. NRS 701B.010, 701B.020, 701B.030, 701B.040, 701B.050, 701B.055, 701B.060, 701B.070, 701B.080, 701B.090, 701B.100, 701B.110, 701B.120, 701B.130, 701B.140, 701B.150, 701B.160, 701B.170, 701B.180, 701B.200, 701B.210, 701B.220, 701B.230, 701B.240, 701B.250, 701B.255, **701B.265,** 701B.280 and 701B.290 are hereby repealed.

2. ~~[NRS 701B.265 and 701B.625 are hereby repealed.~~

~~3.]~~ NRS 701B.260 is hereby repealed.

~~[4.]~~ **3.** NRS 701B.400, 701B.615 and 701B.700 are hereby repealed.

~~[5.]~~ **4.** Sections 1.53 and 19.8 of chapter 321, Statutes of Nevada 2009, at pages 1372 and 1408, respectively, are hereby repealed.

Sec. 53. The Public Utilities Commission of Nevada shall adopt the regulations necessary to carry out the provisions of sections 1, 3 to 12, inclusive, 14 to 25, inclusive, 27 to 43, inclusive, and 47 of this act on or before July 1, 2012.

Sec. 54. 1. This section, sections 49, 50 and 51 and subsection ~~[5.]~~ **4** of section 52 of this act become effective upon passage and approval.

2. Sections 13, 26, 45, **and** 46 ~~[and subsection 2 of section 52]~~ of this act become effective on July 1, 2011.

3. Sections 1, 3 to 12, inclusive, 14 to 25, inclusive, 27 to 43, inclusive, 47, subsection ~~[4]~~ **3** of section 52 and section 53 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2013, for all other purposes.

4. Subsection ~~[3]~~ **2** of section 52 of this act becomes effective on December 31, 2012.

5. Sections 3 to 6, inclusive, 15 to 25, inclusive, 27 to 43, inclusive, and 47 of this act expire by limitation on December 31, 2021.

6. Sections 2, 44, 48 and subsection 1 of section 52 of this act become effective on January 1, 2022.

LEADLINES OF REPEALED SECTIONS OF NRS AND TEXT OF REPEALED SECTIONS OF STATUTES OF NEVADA

701B.010 Applicability.
701B.020 Definitions.
701B.030 "Applicant" defined.
701B.040 "Category" defined.
701B.050 "Commission" defined.
701B.055 "Distributed generation system" defined.
701B.060 "Institution of higher education" defined.
701B.070 "Owned, leased or occupied" defined.
701B.080 "Participant" defined.
701B.090 "Person" defined.
701B.100 "Program year" defined.
701B.110 "Public and other property" defined.
701B.120 "Public entity" defined.
701B.130 "School property" defined.
701B.140 "Small business" defined.
701B.150 "Solar energy system" defined.
701B.160 "Solar Program" defined.
701B.170 "Task Force" defined.
701B.180 "Utility" defined.
701B.200 Regulations: Establishment of incentives and requirements for utility's annual plan; exceptions; recovery of costs by utility.
701B.210 Regulations: Establishment of qualifications and requirements for participation; form and content of utility's master application.
701B.220 Regulations: Establishment of incentives for participation.
701B.230 Duty of utility to file annual plan; review and approval of annual plan by Commission; recovery of costs by utility.
701B.240 Creation of Solar Program; categories of participation; eligibility requirements.
701B.250 Application to participate; review of application by utility.

701B.255 Procedure for selection and notification of participants; authorization to install and energize solar energy system; submission of incentive claim form; determination of amount of incentive; withdrawal of participant; forfeiture of incentive.

701B.260 Capacity allocated to each category; reallocation of capacity; limitations on incentives.

701B.265 Installation of solar energy system deemed public work under certain circumstances.

701B.280 Participation in net metering.

701B.290 Issuance of portfolio energy credits.

701B.400 Short title.

701B.615 Procedure for selection and notification of participants; authorization to install and energize wind energy system; submission of incentive claim form; determination of amount of incentive; withdrawal of participant; forfeiture of incentive.

[~~701B.625 Installation of wind energy system deemed public work under certain circumstances.~~**]**

701B.700 Short title.

Section 1.53 of chapter 321, Statutes of Nevada 2009, at pages 1372-73.

Sec. 1.53. 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 **[**~~and the Wind Energy Systems Demonstration Program created pursuant to 701B.580,~~**]** 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 **[**~~Programs;~~**]** ***Program;*** and

(3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the **[**~~Programs;~~**]** ***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. Carry out all other directives concerning energy that are prescribed by the Governor.

Section 19.8 of chapter 321, Statutes of Nevada 2009, at pages 1408-09.

Sec. 19.8. Section 19.4 of this act is hereby amended to read as follows:

Sec. 19.4. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of each local government shall, within 60 days after the effective date of this section, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240; ***or***

(II) The Renewable Energy School Pilot Program created by NRS 701B.350 **.** ~~[~~**;**

~~(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or~~

~~(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.~~**]**

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Nevada Energy Commissioner and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;

(2) Fuel cells;

(3) Geothermal energy;

(4) Solar energy;

(5) Waterpower; and

(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 402.

Bill read second time.

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

Amendment No. 245.

AN ACT relating to state financial administration; requiring a state agency to seek and obtain the approval of the State Board of Finance to enter into a contract to allow the agency to accept credit or debit cards or electronic transfers of money unless it is impracticable for the agency to enter into such a contract; authorizing the Director of the Department of Administration to enter into contracts for the benefit of all state agencies for the acceptance of credit or debit cards or electronic transfers of money, in which any state agency may participate; requiring a state agency that does not enter into such a contract or participate in a contract entered into by the Director of the Department of Administration to report periodically to the Legislative Commission and the Interim Finance Committee concerning the reasons for the failure; **requiring the administration of such contracts to be coordinated with the State Treasurer;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a state agency to enter into a contract for the acceptance of credit cards, debit cards or electronic transfers of money by the agency, with the approval of the State Board of Finance. (NRS 353.1465) ~~[This]~~ **Section 1 of this** bill requires state agencies to seek and obtain such approval unless it is impracticable for the agency to enter into such a contract. A state agency may, in lieu of entering into such a contract on its own behalf, participate in a contract entered into by the Director of the Department of Administration for the benefit of all state agencies. ~~[This bill]~~ **Section 1** also authorizes the Director to enter into such contracts for the benefit of all state agencies, subject to the restrictions and procedures that currently apply to individual contracts. Finally, ~~[the bill]~~ **section 1** requires an agency that has not entered into such a contract or is not participating in an agreement entered into by the Director of the Department of Administration to report periodically to the Legislative Commission and the Interim Finance Committee concerning the reasons for the failure. **Section 3 of this bill requires that the administration of such contracts be coordinated with the State Treasurer to ensure that the State Treasurer can track and reconcile payments.**

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state agency shall seek and obtain the approval of the State Board of Finance to enter into a

contract for the acceptance of credit cards, debit cards or electronic transfers of money pursuant to NRS 353.1465 unless it is impracticable for the agency to enter into such a contract.

2. The Director of the Department of Administration may enter into one or more contracts with issuers of credit cards or debit cards or operators of systems that provide for the electronic transfer of money to provide for the acceptance of credit cards, debit cards or electronic transfers of money by any state agency that chooses to participate in the contract. The Director must obtain approval of the State Board of Finance in the manner required pursuant to NRS 353.1465 for such a contract, and the contract is subject to the requirements of that section. If a state agency participates in such a contract, it is not required to seek and obtain approval to enter into a contract pursuant to subsection 1.

3. A state agency that has not entered into a contract pursuant to NRS 353.1465 or is not participating in a contract pursuant to subsection 2 shall report to the Legislative Commission and the Interim Finance Committee on or before July 1 of every even-numbered year concerning the reasons that the agency has failed to enter into or participate in such a contract, including any supporting financial information, and the efforts the agency is taking to allow it to enter into or participate in such a contract in the future.

Sec. 2. NRS 353.146 is hereby amended to read as follows:

353.146 As used in NRS 353.146 to 353.148, inclusive, ***and section 1 of this act,*** "state agency" means an agency, bureau, board, commission, department, division or any other unit of the Executive Department of the State Government.

Sec. 3. **NRS 353.1465 is hereby amended to read as follows:**

353.1465 1. Upon approval of the State Board of Finance, a state agency may enter into contracts with issuers of credit cards or debit cards or operators of systems that provide for the electronic transfer of money to provide for the acceptance of credit cards, debit cards or electronic transfers of money by the agency:

(a) For the payment of money owed to the agency for taxes, interest, penalties or any other obligation; or

(b) In payment for goods or services.

2. Before a state agency may enter into a contract pursuant to subsection 1, the agency must submit the proposed contract to the State Treasurer for his or her review and transmittal to the State Board of Finance. ***The agency shall coordinate the administration of the contract with the State Treasurer to ensure that the State Treasurer is able to track and reconcile payment information pursuant to the contract.***

3. Except as otherwise provided in subsection 4, if the issuer or operator charges the state agency a fee for each use of a credit card or debit card or for each electronic transfer of money, the state agency may require the cardholder or the person requesting the electronic transfer of money to pay a

convenience fee when appropriate and authorized. The total convenience fees charged by the state agency in a fiscal year must not exceed the total amount of fees charged to the state agency by the issuer or operator in that fiscal year.

4. A state agency that is required to pay a fee charged by the issuer or operator for the use of a credit card or debit card or for an electronic transfer of money may, pursuant to NRS 353.148, file a claim with the Director of the Department of Administration for reimbursement of the fees paid to the issuer or operator during the immediately preceding quarter.

5. The Director of the Department of Administration shall adopt regulations providing for the submission of payments to state agencies pursuant to contracts authorized by this section. The regulations must not conflict with a regulation adopted pursuant to NRS 360.092 or 360A.020.

6. As used in this section:

(a) "Cardholder" means the person or organization named on the face of a credit card or debit card to whom or for whose benefit the credit card or debit card is issued by an issuer.

(b) "Convenience fee" means a fee paid by a cardholder or person requesting the electronic transfer of money to a state agency for the convenience of using the credit card or debit card or the electronic transfer of money to make such payment.

(c) "Credit card" means any instrument or device, whether known as a credit card or credit plate or by any other name, issued with or without a fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value on credit.

(d) "Debit card" means any instrument or device, whether known as a debit card or by any other name, issued with or without a fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds.

(e) "Electronic transfer of money" has the meaning ascribed to it in NRS 463.01473.

(f) "Issuer" means a business organization, financial institution or authorized agent of a business organization or financial institution that issues a credit card or debit card.

~~[Sec. 3.]~~ ***Sec. 4.*** This act becomes effective on January 1, 2012.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 416.

Bill read second time.

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

Amendment No. 433.

AN ACT relating to energy; revising provisions governing the Solar Energy Systems Incentive Program; ~~[revising the categories of participants in the Solar Program;]~~ revising provisions governing the Wind Energy Systems Demonstration Program; **revising provisions governing the payment of incentives to participants in the Solar Program and the Wind Program;** removing the prospective expiration of the Wind Program; ~~[revising provisions governing certain solar energy systems and wind energy systems which are deemed public works for certain purposes; revising provisions governing net metering systems; requiring the reallocation of certain capacity and incentives for participation in the Solar Program;]~~ requiring the Public Utilities Commission of Nevada to adopt certain regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill revises provisions governing the incentives for participation in the Solar Energy Systems Incentive Program, requires the Public Utilities Commission of Nevada to review the incentives and authorizes the Commission to adjust the incentives not less frequently than annually. **Section ~~[5 of this bill]~~ 4** provides that the ~~[Solar Program is created to meet the Legislature's goal of not less than 400 megawatts of installed solar energy systems in this State on or before January 1, 2020. Sections 3 and 5 of this bill revise the categories of participants in the Solar Program to include commercial property, and section 7 of this bill revises the allocation of capacity to the different categories of participants in the Program. Section 6 of this bill removes the requirement that a participant in the Solar Program be approved by a utility before installing and energizing the solar energy system. Section 8 of this bill revises provisions concerning certain solar energy systems that are deemed public works and requires that the application for any such solar system include the identifying number assigned to the public work by the Labor Commissioner.~~

~~Sections 9 and 10 of this bill require the Commission to establish the categories of participation in the Wind Energy Systems Demonstration Program.]~~ **total amount of the incentive paid to a participant in the Solar Program in the category of private residential property must be paid upon proof that the participant has installed and energized the solar energy system, while the amount of the incentive paid to a participant in a category other than the category of private residential property must be paid over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system.**

Section 10 of this bill revises the capacity goals for the Wind **Energy Systems Demonstration** Program, which must be designed so that the total cost of the Wind Program does not exceed $30,000,000 per year through June 30, 2017. **Section 10** further provides that the ~~[incentives must be]~~ **total amount of the incentive paid to a participant in the Wind Program in the category of private residential property must be paid upon proof that**

the participant has installed and energized the wind energy system, while the amount of the incentive paid to a participant in a category other than the category of private residential property must be paid over time and based on the performance of and amount of electricity generated by the wind energy system. ~~[Section 13 of this bill revises provisions concerning certain wind energy systems that are deemed public works and requires that the application for any such wind energy system include the identifying number assigned to the public work by the Labor Commissioner.]~~ **Sections 20 [~~, 23~~] -22** of this bill remove the prospective expiration of the Wind Program.

~~[Section 15 of this bill revises provisions governing net metering systems to include a system that is intended primarily to offset part or all of a customer-generator's requirements for electricity on the property where the system is located or on property contiguous with such property and owned by the customer-generator. Section 16 of this bill increases the net metering cap from 1 percent of the utility's peak capacity to 5 percent. Section 17 of this bill revises provisions governing the requirements for safety and power quality standards applicable to net metering systems. Section 18 of this bill requires the Commission to adopt regulations specifying certain information that must be included in a bill for electrical service for a customer-generator.]~~

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

Section 1. ~~[NRS 701B.100 is hereby amended to read as follows:~~

~~701B.100 "Program year" means [the period of July 1 to June 30 of the following] *a calendar* year.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[NRS 701B.110 is hereby amended to read as follows:~~

~~701B.110 1. "Public and other property" means any real property, building or facilities which are owned, leased or occupied by:~~

~~(a) A public entity;~~

~~(b) A nonprofit organization that is recognized as exempt from taxation pursuant to section [501(c)(3)] *501(c)* of the Internal Revenue Code, 26 U.S.C. § [501(c)(3),] *501(c),* as amended; or~~

~~(c) A corporation for public benefit as defined in NRS 82.021.~~

~~2. The term includes, without limitation [, any] :~~

~~*(a) Any* real property, building or facilities which are owned, leased or occupied by:~~

~~[(a)] *(1)* A church; or~~

~~[(b)] *(2)* A benevolent, fraternal or charitable lodge, society or association.~~

~~[3. The term does not include school]~~

~~*(b) School* property.]~~ **(Deleted by amendment.)**

Sec. 3. NRS 701B.210 is hereby amended to read as follows:

701B.210 The Commission shall adopt regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in each applicable category of:

(a) School property;

(b) Public and other property; ~~[and]~~

(c) ~~[(b)]~~ Private residential property ***;*** and ~~[small]~~

(d) Small business

~~[(c) Commercial]~~ property; and

2. The form and content of the master application.

Sec. 4. NRS 701B.220 is hereby amended to read as follows:

701B.220 ***1.*** In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing an incentive for participation in the Solar Program. ***The regulations must:***

(a) Provide that the total amount of the incentive paid to a participant in the category of private residential property must be paid upon proof that the participant has installed and energized the solar energy system;

(b) Provide that the amount of the incentive paid to a participant in a category other than the category of private residential property must be paid over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system;

~~[~~ ~~*(b) Provide that the amount of any incentive paid for a solar energy system which is installed on public and other property and which is owned by a private entity must be the incentive paid for a participant in the category of commercial property;]*~~

(c) Provide for a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:

(1) The amount of the incentive the participant will receive from the utility;

(2) ~~*[The]*~~ ***For a participant in a category other than the category of private residential property, the period in which the participant will receive an incentive from the utility*** ~~*[and provisions for the extension of that period;]*~~ ***, which must not exceed 5 years;***

(3) ~~*[The]*~~ ***For a participant in a category other than the category of private residential property, the frequency of payments of an incentive to the participant, which must be not more frequently than*** ~~*[quarterly]*~~ ***monthly and not less frequently than*** ~~*[annually;]*~~ ***quarterly; and***

(4) That any portfolio energy credits issued to the participant and attributable to the solar energy system during the period in which the participant will receive an incentive from the utility must be assigned to and become the property of the utility in the manner prescribed by NRS 701B.290; ~~*[and]*~~

(d) Establish reporting requirements for each utility that participates in the Solar Program, which must include, without limitation, periodic reports of the average cost of systems in each category, the cost to the utility of carrying out the Solar Program and the effect of the Solar Program on the rates paid by the customers of the utility ~~*[.]*~~ ***; and***

(e) Provide for a decline over time in the amount of the incentives for participation in the Solar Program as the cost of installing solar energy systems decreases.

2. The Commission shall review the incentives for participation in the Solar Program and may adjust the amount of the incentives not less frequently than annually.

Sec. 5. NRS 701B.240 is hereby amended to read as follows:

701B.240 1. The Solar Energy Systems Incentive Program is hereby created. *[to meet the goal of the Legislature that not less than 400 megawatts of solar energy systems be installed in this State on or before January 1, 2020.]*

2. The Solar Program must have **[**three**]** ***four*** categories as follows:

(a) School property;

(b) Public and other property; **[**and**]**

(c) *[(b)]* Private residential property ***;*** and **[**small**]**

(d) Small business

[(c) Commercial] property.

3. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.210;

(b) *[Be a customer of a utility;*

(c)] Submit an application to a utility and be selected by the Commission for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.255;

(c) *[(d)]* When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) *[(e)]* If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands-on experience of the solar energy system by the public.

Sec. 6. **[**NRS 701B.255 is hereby amended to read as follows:

701B.255 1. After reviewing an application submitted pursuant to NRS 701B.250 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, a utility may select the applicant for participation in the Solar Program.

2. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

3. After the utility selects an applicant to participate in the Solar Program, the utility may approve the solar energy system **[**proposed by**]** ***of*** the applicant. Upon the utility's approval of the solar energy system **[**:

(a) The**], *the*** utility shall provide to the applicant notice of the approval and the amount of incentive for which the solar energy system is eligible**. [**; and

(b) The applicant may install and energize the solar energy system.**]**

4. Upon the completion of the installation and energizing of the solar energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

5. Upon receipt of the incentive claim form and verification that the solar energy system is properly connected, the utility shall issue an incentive payment to the participant.

6. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Solar Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Solar Program or does not complete the installation of the solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program. An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the solar energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the solar energy system.**]** **(Deleted by amendment.)**

Sec. 7. **[**NRS 701B.260 is hereby amended to read as follows:

701B.260 1. Except as otherwise provided in this section, the Commission may approve, for:

(a) The program year beginning **[**July 1, 2009,**]** ***January 1, 2011,*** solar energy systems:

(1) Totaling **[**2,000**]** ***752*** kilowatts of capacity for **[**school property;

(2) Totaling 760 kilowatts of capacity for**]** public and other property; **[**and

(3)**]** ***(2)*** Totaling **[**1,000**]** ***1,500*** kilowatts of capacity for private residential property**;** and **[**small business**]**

(3) Totaling 1,500 kilowatts of capacity for commercial property; and

(b) Each program year for the period beginning **[**July 1, 2010,**]** ***January 1, 2012,*** and ending on **[**June 30, 2021,**]** ***December 31, 2019,*** an additional 9 percent of the sum of the total allocated capacities of all the categories described in paragraph (a) which must be approved for distributed generation systems.

2. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Commission may, in any combination it deems appropriate **[**:

(a) Reallocate**], *reallocate*** any of the unused capacity in that category to any of the other categories**. [**; or

(b) Reallocate any of the unused capacity in that category to future program years within the same category.

3. To promote the installation of solar energy systems on as many school properties as possible, the Commission may not approve for use in the Solar Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed on school property on or after July 1, 2007, unless the Commission determines that approval of a solar energy system with a greater generating capacity is more practicable for a particular school property.

4.**] *3.*** The Commission shall not authorize the payment of an incentive for the installation of a solar energy system or distributed generation system if:

(a) For the period beginning July 1, 2010, and ending June 30, 2013, inclusive, the payment of the incentive would cause the total amount of incentives paid by a utility for the installation of solar energy systems and distributed generation systems to exceed $78,260,000; and

(b) For the period beginning July 1, 2010, and ending June 30, 2021, the payment of the incentive would cause the total amount of incentives paid by a utility for the installation of solar energy systems and distributed generation systems to exceed $255,270,000.**] (Deleted by amendment.)**

Sec. 8. **[**NRS 701B.265 is hereby amended to read as follows:

701B.265 1. **[**The**] *If a public body enters into a contract for the*** installation of a solar energy system on property owned or occupied by **[**a**] *the*** public body pursuant to NRS 701B.010 to 701B.290, inclusive, ***the installation of the solar energy system*** shall be deemed to be a public work **[**for the purposes of**] *and is subject to the applicable requirements of*** chapters 338 and 341 of NRS, regardless of whether the installation of the solar energy system is financed in whole or in part by public money.

2. The amount of any incentive issued by a utility relating to the installation of a solar energy system on property owned or occupied by a public body may not be used to reduce the cost of the project to an amount which would exempt the project from the requirements of NRS 338.020 to 338.090, inclusive.

3. ***An applicant who submits an application for participation in the Solar Program for a solar energy system installed on property owned or occupied by a public body shall include with the application the identifying number assigned to the project pursuant to NRS 338.013.***

4. As used in this section, "public body" means the State or a county, city, town, school district or any public agency of this State or its political subdivisions.**] (Deleted by amendment.)**

Sec. 9. NRS 701B.580 is hereby amended to read as follows:

701B.580 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The Program must have ~~[four]~~ ***five*** categories as follows:

(a) School property;

(b) Other public property;

(c) Private residential property ~~[and small]~~ ***;***

(d) Small business property; and

~~[(d)]~~ ***(e)*** Agricultural property.

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.590; ~~*[and]*~~

(b) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board ~~*[.]*~~ ; and

(c) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 10. NRS 701B.590 is hereby amended to read as follows:

701B.590 The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. ~~*[The categories of participation in the Program.*~~

~~2.]~~ The capacity goals for the Program, which must be designed ~~[to meet the goal of the Legislature of the installation of not less than 5 megawatts of wind energy systems in this State by 2012]~~ ***so that the total cost of the Program does not exceed $30,000,000 per year through June 30, 2017,*** and the ***capacity*** goals for each category of the Program.

2. ~~*[3.]*~~ A system of incentives that are based on rebates that decline as the ~~[capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.~~

~~3.]~~ ***cost of installing wind energy systems declines. The*** ~~*[rebates must be based on the performance of and amount of electricity generated by a wind energy system.]*~~ ***system must provide:***

(a) That the total amount of the incentive for a participant in the category of private residential property must be paid upon proof that the participant has installed and energized the wind energy system;

(b) That the amount of the incentive for a participant in a category other than the category of private residential property must be paid over time and be based on the performance of the wind energy system and the amount of electricity generated by the wind energy system; and

(c) For a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:

(1) The amount of the incentive the participant will receive from the utility;

(2) For a participant in a category other than the category of private residential property, the period in which the participant will receive an incentive from the utility, which must not exceed 5 years;

(3) For a participant in a category other than the category of private residential property, the frequency of payments of an incentive to the participant, which must be not more frequently than monthly and not less frequently than quarterly; and

(4) That any portfolio energy credits issued to the participant and attributable to the wind energy system during the period in which the participant will receive an incentive from the utility must be assigned to and become the property of the utility in the manner prescribed by NRS 701B.640.

3. Reporting requirements for each utility that participates in the Program, which must include, without limitation, periodic reports of the average cost of systems in each category, the cost to the utility of carrying out the Program and the effect of the Program on the rates paid by the customers of the utility.

4. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

Sec. 11. ~~[NRS 701B.610 is hereby amended to read as follows:~~

~~701B.610 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area for the following [program] year.~~

~~2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:~~

~~(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and~~

~~(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.]~~ **(Deleted by amendment.)**

Sec. 12. ~~[NRS 701B.615 is hereby amended to read as follows:~~

~~701B.615 1. An applicant who wishes to participate in the Wind Demonstration Program must submit an application to a utility.~~

~~2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.~~

~~3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.~~

~~4. After the utility selects an applicant to participate in the Program, the utility may approve the wind energy system proposed by the applicant. Upon the utility's approval of the wind energy system:~~

~~(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the wind energy system is eligible; and~~

~~(b) The applicant may install and energize the wind energy system.~~

~~5. Upon the completion of the installation and energizing of the wind energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.~~

~~6. Upon receipt of the incentive claim form and verification that the wind energy system is properly connected, the utility shall issue an incentive payment to the participant.~~

~~7. The [~~amount of the~~] incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Wind Demonstration Program, except that an applicant forfeits eligibility for that [~~amount of~~] incentive if the applicant withdraws from participation in the Program or~~ ***, except as otherwise provided in subsection 8,*** ~~does not complete the installation of the wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the wind energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the wind energy system.~~

~~8. An applicant may request from the utility not more than two extensions of the period in which he or she must complete installation of the wind energy system prescribed by subsection 7 if the applicant demonstrates that an extension is necessary because of unforeseen delays in obtaining any necessary permits or the unavailability of equipment or supplies necessary to complete the installation of the wind energy system. The period of any extension granted pursuant to this subsection must not exceed 6 months.]~~ **(Deleted by amendment.)**

Sec. 13. ~~[NRS 701B.625 is hereby amended to read as follows:~~

~~701B.625 1. [~~The~~]~~ ***If a public body enters into a contract for the*** ~~installation of a wind energy system on property owned or occupied by [~~a~~]~~ ***the*** ~~public body pursuant to NRS 701B.400 to 701B.650, inclusive,~~ ***the installation of the wind energy system*** ~~shall be deemed to be a public work [~~for the purposes~~]~~ ***and is subject to the applicable requirements*** ~~of chapters 338 and 341 of NRS, regardless of whether the installation of the wind energy system is financed in whole or in part by public money.~~

~~2. The amount of any incentive issued by a utility relating to the installation of a wind energy system on property owned or occupied by a public body may not be used to reduce the cost of the project to an amount which would exempt the project from the requirements of NRS 338.020 to 338.090, inclusive.~~

~~3. *An applicant who submits an application for participation in the Program for a wind energy system installed on property owned or occupied by a public body shall include with the application the identifying number assigned to the project pursuant to NRS 338.013.*~~

~~*4.* As used in this section, "public body" means the State or a county, city, town, school district or any public agency of this State or its political subdivisions.~~**] (Deleted by amendment.)**

Sec. 14. **[**~~NRS 701B.924 is hereby amended to read as follows:~~

~~701B.924 1. The State Public Works Board shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:~~

~~(a) The length of time necessary to commence the project.~~

~~(b) The number of workers estimated to be employed on the project.~~

~~(c) The effectiveness of the project in reducing energy consumption.~~

~~(d) The estimated cost of the project.~~

~~(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.~~

~~(f) Whether the project has qualified for participation in one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2) The Renewable Energy School Pilot Program created by NRS 701B.350;~~

~~(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or~~

~~(4) **[**The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or~~

~~(5)**]** An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.~~

~~2. The board of trustees of each school district shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:~~

~~(a) The length of time necessary to commence the project.~~

~~(b) The number of workers estimated to be employed on the project.~~

~~(c) The effectiveness of the project in reducing energy consumption.~~

~~(d) The estimated cost of the project.~~

~~(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.~~

~~(f) Whether the project has qualified for participation in one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2) The Renewable Energy School Pilot Program created by NRS 701B.350;~~

~~(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580; **or***~~

~~(4) **[**The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or~~

~~(5)**]** An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.~~

~~3. The Board of Regents of the University of Nevada shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:~~

~~(a) The length of time necessary to commence the project.~~

~~(b) The number of workers estimated to be employed on the project.~~

~~(c) The effectiveness of the project in reducing energy consumption.~~

~~(d) The estimated cost of the project.~~

~~(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.~~

~~(f) Whether the project has qualified for participation in one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2) The Renewable Energy School Pilot Program created by NRS 701B.350;~~

~~(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580; **or***~~

~~(4) **[**The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or~~

~~(5)**]** An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.~~

~~4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:~~

~~(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS;~~

~~(b) Provisions requiring that each contractor and subcontractor employed on each such project:~~

~~(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project; or~~

~~(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;~~

~~(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and~~

~~(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.~~

~~5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.~~**] (Deleted by amendment.)**

Sec. 15. **[**~~NRS 704.771 is hereby amended to read as follows:~~

~~704.771 1. "Net metering system" means a facility or energy system for the generation of electricity that:~~

~~(a) Uses renewable energy as its primary source of energy to generate electricity;~~

~~(b) Has a generating capacity of not more than 1 megawatt;~~

~~(c) Is located on~~ **[**the customer generator's premises;**]** ***property owned by the customer generator;***

~~(d)~~ **[**Operates in parallel**]** ***Is interconnected*** ~~with the utility's transmission and distribution facilities; and~~

~~(e) Is intended primarily to offset part or all of the customer generator's~~ requirements for electricity **[**.**]** ***at the premises where the facility or energy system is located or on property contiguous with the premises and owned by the customer generator.***

~~2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:~~

~~(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or~~

~~(b) One hundred [fifty] *twenty* percent of the [peak demand of the customer.] *customer's anticipated annual consumption of electricity.]*~~

(Deleted by amendment.)

Sec. 16. ~~[NRS 704.773 is hereby amended to read as follows:~~

~~704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to [1] 5 percent of the utility's peak capacity.~~

~~2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than 100 kilowatts, the utility:~~

~~(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.~~

~~(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.~~

~~(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.~~

~~3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than 100 kilowatts, the utility:~~

~~(a) May require the customer-generator to install at its own cost:~~

~~(1) An energy meter that is capable of measuring generation output and customer load; and~~

~~(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.~~

~~(b) Except as otherwise provided in paragraph (c), may charge the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.~~

~~(c) Shall not charge the customer-generator any standby charge.~~

~~→ At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.~~

~~4. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:~~

~~(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:~~

~~(1) Metering equipment;~~

~~(2) Net energy metering and billing; and~~

~~(3) Interconnection,~~

~~➥ based on the allowable size of the net metering system.~~

~~(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.~~

~~(c) A timeline for processing applications and contracts for net metering applicants.~~

~~(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.~~**]** **(Deleted by amendment.)**

Sec. 17. **[**~~NRS 704.774 is hereby amended to read as follows:~~

~~704.774 1. A~~ **[**~~net metering system used by a~~**]** ~~customer-generator must~~ **[**~~meet~~**]** ~~*obtain a building permit issued by a local government or provide proof satisfactory to the utility that his or her net metering system meets* all applicable safety and power quality standards established by:~~

~~(a) The National Electrical Code;~~

~~(b) Underwriters Laboratories Inc.; and~~

~~(c) The Institute of Electrical and Electronic Engineers.~~

~~2. A customer-generator *who obtains a building permit issued by a local government or* whose net metering system meets~~ **[**~~such~~**]** ~~*the* safety and quality standards *prescribed by subsection 1* must not be required by the utility to:~~

~~(a) Comply with additional standards or requirements;~~

~~(b) Perform additional tests;~~

~~(c) Install additional controls; or~~

~~(d) Purchase additional liability insurance,~~

~~➥ arising solely from the status as a customer-generator.~~**]** **(Deleted by amendment.)**

Sec. 18. **[**~~NRS 704.775 is hereby amended to read as follows:~~

~~704.775 1. The billing period for net metering must be a monthly period.~~

~~2. The net energy measurement must be calculated in the following manner:~~

~~(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.~~

~~(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.~~

~~(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:~~

~~(1) Neither the utility nor the customer-generator is entitled to compensation for the electricity provided to the other during the billing period.~~

~~(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt-hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.~~

~~(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:~~

~~(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;~~

~~(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or~~

~~(III) The customer-generator transfers the net metering system to another person.~~

~~(4) The value of the excess electricity must not be used to reduce any other fee or charge imposed by the utility.~~

~~3. If the cost of purchasing and installing a net metering system was paid for:~~

~~(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.~~

~~(b) Entirely by a customer-generator, the Commission shall issue to the customer generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 and 704.78213 equal to the electricity generated by the net metering system.~~

~~4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.~~

~~***5. The Commission shall adopt regulations specifying the information that must be included in a bill for electrical service for a customer-generator, which must include, without limitation:***~~

~~***(a) The amount of energy generated by the net metering system.***~~

~~***(b) The amount of excess electricity fed back to the utility during the billing period.***~~

~~*(c) The amount of any excess electricity to be carried forward to the next billing period, if any.*~~

~~*(d) The rate the customer generator received from the utility for electricity generated by the net metering system during the billing period.]*~~ **(Deleted by amendment.)**

Sec. 19. NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(II) The Renewable Energy School Pilot Program created by NRS 701B.350; ***or***

(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580 **.** ~~[~~; or

~~(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.]~~

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Nevada Energy Commissioner and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;

(2) Fuel cells;

(3) Geothermal energy;

(4) Solar energy;

(5) Waterpower; and

(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 20. Section 113 of chapter 509, Statutes of Nevada 2007, at page 2999, is hereby amended to read as follows:

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.

(5) For section 48 of this act, on January 1, 2010.

(6) For section 50 of this act, on January 1, 2011.

2. Sections ~~[62]~~ ***87*** to 106, inclusive, of this act expire by limitation on June 30, 2011.

Sec. 21. Section 13 of chapter 246, Statutes of Nevada 2009, at page 1002, is hereby amended to read as follows:

Sec. 13. 1. This act becomes effective on July 1, 2009.

2. ~~[Sections 2 and]~~ ***Section*** 3 of this act ~~[expire]~~ ***expires*** by limitation on June 30, 2011.

Sec. 22. Section 21 of chapter 321, Statutes of Nevada 2009, at page 1410, is hereby amended to read as follows:

Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.

2. Sections ~~[1.51, 1.85, 1.87, 1.92, 1.93, 1.95, 4.3]~~ ***1.95 and 7.1*** to 9, inclusive, ~~[and 19.4]~~ of this act expire by limitation on June 30, 2011.

~~[3. Sections 1.53 and 19.8 of this act become effective on July 1, 2011.]~~

Sec. 23. ~~[Notwithstanding the provisions of NRS 701B.010 to 701B.290, inclusive:~~

~~1. Any capacity allocated to and any incentive authorized for an applicant for participation in the Solar Energy Systems Incentive Program created by NRS 701B.240 whose application was approved on or before April 26, 2010, and whose solar energy system was not installed and energized within 1 year after the date of approval of the application shall be deemed withdrawn.~~

~~2. Any capacity withdrawn pursuant to subsection 1 must be reallocated on May 1, 2011, and any incentives withdrawn pursuant to subsection 1 must be made available for such reallocated capacity at the levels that were available to participants in the Solar Program on April 26, 2010.~~**]** **(Deleted by amendment.)**

Sec. 23.5. **The Public Utilities Commission of Nevada shall adopt regulations to carry out the amendatory provisions of this act on or before July 1, 2012. The regulations must provide for the transition to the performance-based incentive required by NRS 701B.220, as amended by section 4 of this act and NRS 701B.590, as amended by section 10 of this act for participants in categories other than the category of private residential property in the Solar Energy Systems Incentive Program and the Wind Energy Systems Demonstration Program.**

Sec. 24. ~~[NRS 701B.140 and 701B.490 are hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 25. 1. This section and sections 20 to ~~[23,]~~ **23.5,** inclusive, of this act become effective upon passage and approval.

2. Sections 1 to ~~[19,]~~ **18,** inclusive, and 24 of this act become effective ~~[on July 1, 2011.]~~ **upon passage and approval for the purpose of adopting regulations, and on January 1, 2013, for all other purposes.**

3. Section 19 of this act becomes effective on July 1, 2011.

~~[~~

~~TEXT OF REPEALED SECTIONS~~

~~701B.140 "Small business" defined. "Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.~~

~~701B.490 "Program year" defined. [Effective through June 30, 2011.] "Program year" means the period of July 1 to June 30 of the following year.]~~

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 432.

Bill read second time.

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

Amendment No. 434.

AN ACT relating to energy auditors; establishing the qualifications for an energy auditor; providing for the licensure of energy auditors by the Real Estate Division of the Department of Business and Industry; establishing the requirements with which an energy auditor must comply when conducting an energy audit; ~~[requiring the Director of the Office of Energy to register energy auditors; requiring the Director to issue a certificate to a homeowner upon the completion of an energy audit;]~~ repealing provisions that require the Nevada Energy Commissioner to establish a program for evaluating the energy consumption of residential property in this State; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Nevada Energy Commissioner to establish a program for evaluating energy consumption in residential property in this State and requires a seller to provide a copy of this evaluation to a purchaser of his or her property. (NRS 113.115, 701.250) This bill repeals those provisions. Instead, **section 5** of this bill provides for the licensure of energy auditors by the Real Estate Division of the Department of Business and Industry and establishes the training and qualifications an energy auditor must have to be licensed to conduct energy audits in this State. **Section 6** of this bill establishes the requirements for conducting an energy audit, **limited energy audit or energy assessment,** including, without limitation, the elements of the home which must be evaluated, the software and tools the energy auditor must use and the report the energy auditor must provide to the homeowner and the ~~[Office]~~ **United States Department** of Energy. ~~[Section 29 of this bill adds to the duties of the Director of the Office of Energy requirements to register energy auditors in this State and to provide a certificate to a homeowner who has had an energy audit as proof of that energy audit.]~~

Sections 7-28 of this bill are technical amendments required to carry out the administration of the licensure of the energy auditors, including making the provision of energy audits without a license a misdemeanor. In addition, **section 28** makes it a category E felony to attempt to obtain a license as an energy auditor through intentional misrepresentation, deceit or fraud.

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

Section 1. Chapter 645D of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. "***Energy audit" means a consultation to improve the energy efficiency of a home conducted pursuant to section 6 of this act.***

Sec. 3. *"Energy auditor" means a person who is licensed pursuant to this chapter , or regulated by the Public Utilities Commission of Nevada, to conduct energy audits of homes.*

Sec. 4. *"License" means a license issued to an energy auditor pursuant to this chapter.*

Sec. 5. *1. The Administrator shall issue a license to any person who:*

(a) Is of good moral character, honesty and integrity;

(b) Holds a certification or accreditation from an organization approved by the Administrator;

(c) Has successfully completed not less than 40 hours of training and practice in the following areas:

(1) Building science and working with a home as a system, including, without limitation, training in making recommendations based on the proper loading order of improvements;

(2) The transfer of heat;

(3) Testing building performance;

(4) Air distribution and leakage;

(5) The calculation of gross and net areas;

(6) Energy terms and definitions;

(7) Concerns relating to combustion appliances;

(8) Envelope leakage, thermal bypass and thermal bridging;

(9) The presence or absence of insulation and, when observable, the quality of its installation;

(10) The recommended levels of insulation for different climate zones;

(11) Determinations of the efficiency of heating, ventilating and air-conditioning equipment from model numbers and default tables;

(12) The strengths and weaknesses, drivers and sensitivities of major types of heating, ventilating and air-conditioning systems;

(13) Estimations of the efficiency of household appliances based on their model numbers or age;

(14) Energy, power, heat-conductivity or resistance and temperature units and key conversion factors;

(15) Measuring building dimensions;

(16) Identification and documentation of inspected features of the home during an energy audit;

(17) Basics of specifications;

(18) Determination of the efficiency of windows and doors;

(19) Determination of the orientation of buildings and the characteristics of the shading around them;

(20) Defining the thermal boundary and making appropriate recommendations for changing it; and

(21) The basic concepts of measure interaction, expected life and bundling for optimal performance when the home is considered as a system and taking into consideration the need for savings;

(d) Has submitted proof that the person or his or her employer holds a policy of insurance that complies with the requirements of subsection 1 of NRS 645D.190; and

(e) ~~[Has submitted proof that the person is registered, or has applied for registration, with the Office of Energy pursuant to NRS 701.180; and~~

~~(f)]~~ Has submitted all information required to complete an application for a license.

2. The Administrator may deny an application for a license to any person who:

(a) Has been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(b) Makes a false statement of a material fact on the application;

(c) Has had a license suspended or revoked pursuant to this chapter within the 10 years immediately preceding the date of application;

(d) Does not possess the training or certification required pursuant to subsection 1; or

(e) Has not submitted proof that the person or his or her employer holds a policy of insurance that complies with the requirements of subsection 1 of NRS 645D.190.

Sec. 6. *1. ~~[When]~~ Except as otherwise provided in subsection 5, when conducting an energy audit, an energy auditor shall evaluate the entire home and must include, without limitation, in his or her evaluation:*

(a) A visual inspection, diagnostic overview and health and safety test of the energy features of the entire home;

(b) Documentation of the general condition of the home, including, without limitation:

(1) Envelope features and ages;

(2) Types, characteristics and ages of equipment;

(3) Characteristics of appliances and lighting; and

(4) Any anticipated remediation issues, including, without limitation, moisture or combustion appliance problems;

(c) An assessment of the performance and efficiency of the building airflow and indoor air quality and ventilation, including, without limitation:

(1) Any visible sources of indoor air pollution;

(2) The flow rate of exhaust fans and whether the clothes dryer vent ~~[to outdoors;]~~ is properly vented; and

(3) An evaluation of the connection of any attached garage to the home for possible air leaks;

(d) An assessment of the control of moisture in the home, including, without limitation:

(1) A visual identification of any moisture present from roof leaks, wall penetrations or door or window openings; and

(2) An identification of any potential areas where mold may grow;

(e) An estimation of U-factors and solar heat gain coefficients of the windows and doors;

(f) An evaluation of the efficiency of the heating and cooling of the home, including, without limitation, the performance and efficiency of any:

(1) Furnace;

(2) Air-conditioning system;

(3) Heat pump;

(4) Air duct system;

(5) Thermal insulation;

(6) Boiler;

(7) System for providing steam heat;

(8) Hot water heater; or

(9) Heating, ventilating and air-conditioning system;

(g) An analysis of the base load energy use and advice to clients on reduction strategies, including, without limitation, an examination of:

(1) The utility use and the billing history for the immediately preceding 12 months;

(2) The ~~[performance]~~ efficiency of major appliances;

(3) Lighting efficiency and alternatives; or

(4) ~~[Any clothes dryer vents;~~

~~(5) Any consumer electronics; or~~

~~(6)]~~ The energy used by any pool or spa; and

(h) Testing of combustion appliances in accordance with the standards issued by the American National Standards Institute ~~[and]~~ or the American Society for Testing and Materials.

2. After conducting an energy audit, an energy auditor shall prepare and provide to the homeowner and the ~~[Office]~~ United States Department of Energy a report based upon the energy audit that includes, without limitation:

(a) Any energy programs, incentives, regulations, energy costs or fuel types which apply to the homeowner ; ~~[, as well as any information concerning typical local energy consumption levels;]~~

(b) A specific recommendation that any combustion appliance which is post-retrofit be tested;

(c) A prioritization of health and safety hazards in the home and recommendations for improvements according to their urgency and importance ~~[;]~~ , in relation to any energy efficiency measures which have been installed;

(d) Suggestions for home repairs and renovations based on a loading order that will maximize cost effectiveness and feasibility using computer software approved by the United States Department of Energy;

(e) In addition to the provisions of paragraph (c), an identification of existing hazards and potential hazards which may develop, together with specific preventative measures; and

(f) ~~[Details of measures]~~ Measures to save energy and changes in the behavior of the homeowner to increase energy efficiency ~~[.]~~ , including the use of consumer electronics.

3. An energy auditor shall not base an energy audit upon a single product line, the services of a contractor or his or her own convenience.

4. An energy auditor shall use ~~[:~~

~~(a) Survey]~~ survey and labeling software programs or rating tools for performing an energy audit which have been approved by the United States Department of Energy . ~~[; or~~

~~(b) Rating tools which have been certified for accuracy by National Accreditation Procedures for Home Energy Rating Systems published by the National Association of State Energy Officers.]~~

5. In lieu of an energy audit, an energy auditor may perform a limited energy audit or energy assessment of a home. If an energy auditor performs a limited energy audit or energy assessment, the energy auditor must comply with the requirements of subsections 2, 3 and 4. As used in this subsection:

(a) "Energy assessment" means an evaluation of one or more of the appliances or systems listed in paragraph (f) of subsection 1.

(b) "Limited energy audit" means an evaluation of a home which includes less than the entire home, but includes the provision of at least one of the services specified in paragraphs (a) to (e), inclusive, (g) or (h) of subsection 1.

Sec. 7. NRS 645D.010 is hereby amended to read as follows:

645D.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645D.020 to 645D.080, inclusive, ***and sections 2, 3 and 4 of this act,*** have the meanings ascribed to them in those sections.

Sec. 8. NRS 645D.100 is hereby amended to read as follows:

645D.100 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 inspection report ***or energy audit*** as part of his or her official duties, unless a certificate ***or license*** is required as a condition of his or her 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 269.135.

4. A person licensed, certified or registered pursuant to chapter 645, 645C or 684A of NRS while performing an act within the scope of his or her license, certification or registration. For the purposes of this subsection, a person licensed, certified or registered pursuant to chapter 645C of NRS shall be deemed to be acting within the scope of his or her license, certification or

registration while performing an appraisal prescribed by federal law that requires a statement of visual condition and while preparing or communicating a report of such an appraisal.

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

6. A person who provides an estimate of cost, repair or replacement of any improvements upon real estate.

7. Any person who reviews plans, performs inspections, prepares inspection reports or examines any component of a structure or construction pursuant to NRS 278.570 or 278.575.

8. An independent registered architect or a licensed professional engineer while performing an inspection pursuant to NRS 116.4106.

Sec. 9. NRS 645D.110 is hereby amended to read as follows:

645D.110 1. The Division shall administer the provisions of this chapter and may employ legal counsel, investigators and other professional consultants necessary to discharge its duties pursuant to this chapter.

2. An employee of the Division shall not:

(a) Be employed by or have an interest in any business that prepares inspection reports ~~[.]~~ or ***energy audits;***

(b) Act as an inspector or as an agent for an inspector ~~[.]~~ ***; or***

(c) Act as an energy auditor or as an agent for an energy auditor.

Sec. 10. NRS 645D.120 is hereby amended to read as follows:

645D.120 The Division shall adopt:

1. Regulations prescribing the education and experience required to obtain a certificate.

2. Regulations prescribing a standard of practice and code of ethics for certified inspectors. Such regulations must establish a degree of care that must be exercised by a reasonably prudent certified inspector.

3. ***Regulations prescribing the education and experience required to obtain a license.***

4. Such other regulations as are necessary for the administration of this chapter.

Sec. 11. NRS 645D.130 is hereby amended to read as follows:

645D.130 1. The Division shall maintain a record of:

(a) Persons from whom it receives applications for a certificate ~~[.]~~ ***or license;***

(b) Investigations conducted by it that result in the initiation of formal disciplinary proceedings;

(c) Formal disciplinary proceedings; and

(d) Rulings or decisions upon complaints filed with it.

2. Except as otherwise provided in this section and NRS 645D.135, records kept in the office of the Division pursuant to this chapter are open to the public for inspection pursuant to regulations adopted by the Division. The

Division shall keep confidential, except as otherwise provided in NRS 239.0115 or unless otherwise ordered by a court, the criminal and financial records of an inspector ***, energy auditor*** or of an applicant for a certificate ~~[.]~~ ***or license.***

Sec. 12. NRS 645D.135 is hereby amended to read as follows:

645D.135 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Division, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a certificate ***or license*** issued pursuant to this chapter.

2. The complaint or other document filed by the Division to initiate disciplinary action and all documents and information considered by the Division when determining whether to impose discipline are public records.

Sec. 13. NRS 645D.160 is hereby amended to read as follows:

645D.160 1. Any person who, in this state, engages in the business of, acts in the capacity of, or advertises or assumes to act as an inspector without first obtaining a certificate pursuant to this chapter is guilty of a misdemeanor.

2. ***Any person who, in this state, engages in the business of, acts in the capacity of, or advertises or assumes to act as an energy auditor without first obtaining a license pursuant to this chapter is guilty of a misdemeanor.***

3. The Division may file a complaint in any court of competent jurisdiction for a violation of this section and assist in presenting the law or facts at any hearing upon the complaint.

~~[3.]~~ ***4.*** At the request of the Administrator, the Attorney General shall prosecute such a violation. Unless the violation is prosecuted by the Attorney General, the district attorney shall prosecute a violation that occurs in the county of the district attorney.

Sec. 14. NRS 645D.170 is hereby amended to read as follows:

645D.170 An application for a certificate ***or license*** must be in writing upon a form prepared and furnished by the Division. The application must include the following information:

1. The name, age and address of the applicant.

2. The place or places, including the street number, city and county, at which the applicant intends to maintain an office to conduct business as an inspector ~~[.]~~ ***or energy auditor.***

3. The business, occupation or other employment of the applicant during the 5 years immediately preceding the date of the application, and the location thereof.

4. The applicant's education and experience to qualify for a certificate ~~[.]~~ ***or license.***

5. Whether the applicant has ever been convicted of, is under indictment for, or has entered a plea of guilty, guilty but mentally ill or nolo contendere to:

(a) A felony and, if so, the nature of the felony.

(b) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

6. If the applicant is a member of a partnership or association or is an officer of a corporation, the name and address of the principal office of the partnership, association or corporation.

7. Any other information relating to the qualifications or background of the applicant that the Division requires.

8. All other information required to complete the application.

Sec. 15. NRS 645D.180 is hereby amended to read as follows:

645D.180 1. Each application for a certificate ***or license*** must be accompanied by the fee for the certificate ***or license*** and the fee to pay the costs of an investigation of the applicant's background.

2. Each applicant must, as part of the application and at his or her own expense:

(a) Arrange to have a complete set of fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary.

3. The Division may:

(a) Require more than one complete set of fingerprints;

(b) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(c) Request from each such agency any information regarding the applicant's background that the Division deems necessary.

Sec. 16. NRS 645D.190 is hereby amended to read as follows:

645D.190 1. The Administrator shall require each applicant for an original certificate ***or license*** and each applicant for renewal of a certificate ***or license*** to submit proof that the applicant or his or her employer holds a policy of insurance covering:

(a) Liability for errors or omissions in an amount of not less than $100,000; and

(b) General liability in an amount of not less than $100,000.

2. Each certified inspector ***, energy auditor*** or his or her employer shall maintain a policy of insurance that complies with the requirements of subsection 1.

Sec. 17. NRS 645D.195 is hereby amended to read as follows:

645D.195 1. In addition to any other requirements set forth in this chapter:

(a) A person who applies for the issuance of a certificate ***or license*** shall include the social security number of the applicant in the application submitted to the Administrator.

(b) A person who applies for the issuance or renewal of a certificate ***or license*** shall submit to the Administrator the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Administrator shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the certificate ~~[,]~~ ***or license;*** or

(b) A separate form prescribed by the Administrator.

3. A certificate ***or license*** may not be issued or renewed by the Administrator if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Administrator shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 18. NRS 645D.210 is hereby amended to read as follows:

645D.210 1. If an application for a certificate ***or license*** is denied:

(a) The Division shall notify the applicant within 15 days after its decision; and

(b) The applicant may not reapply until he or she petitions the Division for leave to file another application. The Division may grant or deny that leave in its sole discretion.

2. If the applicant, within 30 days after receipt of the notice denying the application, files a written request containing allegations that, if true, qualify the applicant for a certificate ~~[,]~~ ***or license,*** the Administrator shall set the matter for a hearing before a hearing officer of the Division to be conducted within 60 days after receipt of the applicant's request. The decision of the hearing officer is a final decision for the purposes of judicial review.

Sec. 19. NRS 645D.220 is hereby amended to read as follows:

645D.220 The Division, upon the discovery of an error in the issuance of a certificate ***or license*** that is related to the qualifications or fitness of the holder thereof, may invalidate the certificate ***or license*** upon written notice to the holder. The holder shall surrender the certificate ***or license*** to the Division within 20 days after the notice is sent by the Division. A person whose certificate ***or license*** is invalidated pursuant to this section, and who has surrendered his or her certificate ~~[,]~~ ***or license,*** may request a hearing on the matter in the same manner as for the denial of an application pursuant to NRS 645D.210.

Sec. 20. NRS 645D.230 is hereby amended to read as follows:

645D.230 1. The Division shall issue a certificate ***or license*** to each eligible person in the form and size prescribed by the Division. A certificate ***or license*** must:

(a) Indicate the name and address of the inspector ***or energy auditor*** and the location of each place where he or she transacts business as an inspector ~~[,]~~ ***or energy auditor;*** and

(b) Contain any additional matter prescribed by the Division.

2. A certificate ***or license*** is valid for 2 years after the first day of the first calendar month immediately following the date it is issued.

3. If an inspector ***or energy auditor*** fails to apply for the renewal of his or her certificate ***or license*** and pay the fee for renewal before the certificate ***or license*** expires, and applies for renewal:

(a) Not later than 1 year after the date of expiration, he or she must pay a fee equal to 150 percent of the amount otherwise required for renewal.

(b) Later than 1 year after the date of expiration, he or she must apply in the same manner as for an original certificate ~~[.]~~ ***or license.***

4. The Division may:

(a) Create and maintain a secure website on the Internet through which each certificate ***or license*** issued pursuant to the provisions of this chapter may be renewed; and

(b) For each certificate ***or license*** renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

Sec. 21. NRS 645D.235 is hereby amended to read as follows:

645D.235 1. A certified inspector ***or energy auditor*** shall notify the Division in writing if he or she is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere to, a felony or any offense involving moral turpitude.

2. A certified inspector ***or energy auditor*** shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere; and

(b) When submitting an application to renew a certificate ***or license*** issued pursuant to this chapter.

Sec. 22. NRS 645D.240 is hereby amended to read as follows:

645D.240 1. The following fees must be charged and collected by the Division:

For each application for a certificate ***or license*****……**$100
For the issuance or renewal of a certificate ~~*[or license]*~~.....250
For the issuance or renewal of a license……500
For each penalty for a late renewal of a certificate ***or license*****……**125
For each change of name, address or association ……..20
For each duplicate certificate ***or license*** where the original is lost or destroyed and an affidavit is made thereof…….20
For each reinstatement to active status of an inactive certificate ***or license*****…….**20
For each annual approval of a course of instruction offered in preparation for an original certificate ***or license*****……**100
For each original accreditation of a course of continuing education……100
For each renewal of accreditation of a course of continuing education….50

2. The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:

(a) Any examination for a certificate ~~[,]~~ ***or license,*** including any costs which are necessary for the administration of such an examination.

(b) Any investigation of a person's background.

Sec. 23. NRS 645D.690 is hereby amended to read as follows:

645D.690 The expiration or revocation of a certificate ***or license*** by operation of law or by order or decision of a hearing officer or court of competent jurisdiction, or the voluntary surrender of a certificate ***or license*** by a certified inspector ***or energy auditor*** does not:

1. Prohibit the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the certified inspector ***or energy auditor*** as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the certified inspector ~~[.]~~ ***or energy auditor.***

Sec. 24. NRS 645D.700 is hereby amended to read as follows:

645D.700 1. Grounds for disciplinary action against a certified inspector ***or energy auditor*** are:

(a) Unprofessional conduct;

(b) Professional incompetence; and

(c) A criminal conviction for a felony or any offense involving moral turpitude.

2. If grounds for disciplinary action against a certified inspector ***or energy auditor*** exist, the Division may, after providing the inspector ***or energy auditor*** with notice and an opportunity for a hearing, do one or more of the following:

(a) Revoke or suspend the certificate ~~[.]~~ ***or license.***

(b) Place conditions upon the certificate ***or license*** or upon the reissuance of a certificate ***or license*** revoked pursuant to this section.

(c) Deny the renewal of the certificate ~~[.]~~ ***or license.***

(d) Impose a fine of not more than $1,000 for each violation.

3. If a certificate ***or license*** is revoked by the Division, another certificate ***or license*** must not be issued to the same inspector ***or energy auditor*** for at least 1 year after the date of the revocation, or at any time thereafter except in the sole discretion of the Administrator, and then only if the inspector ***or energy auditor*** satisfies the requirements for an original certificate ~~[.]~~ ***or license.***

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 25. NRS 645D.703 is hereby amended to read as follows:

645D.703 In addition to any other remedy or penalty, the Administrator may:

1. Refuse to issue a certificate ***or license*** to a person who has failed to pay money which the person owes to the Division.

2. Refuse to renew, or suspend or revoke, the certificate ***or license*** of a person who has failed to pay money which the person owes to the Division.

Sec. 26. NRS 645D.705 is hereby amended to read as follows:

645D.705 1. If the Administrator receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a certified inspector ~~[.]~~ ***or energy auditor,*** the Administrator shall deem the certificate ***or license*** issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Administrator receives a letter issued to the certified inspector ***or energy auditor*** by the district attorney or other public agency pursuant to NRS 425.550 stating that the certified inspector ***or energy auditor*** has

complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Administrator shall reinstate a certificate ***or license*** that has been suspended by a district court pursuant to NRS 425.540 if the Administrator receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate ***or license*** was suspended stating that the person whose certificate ***or license*** was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 27. NRS 645D.730 is hereby amended to read as follows:

645D.730 1. In addition to any other remedy or penalty, the Administrator may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate ***or license*** or any type of authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate ***or license*** or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Administrator imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Administrator shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Administrator deems to be relevant.

4. Before the Administrator may impose the administrative fine, the Administrator must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Administrator in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 28. NRS 645D.900 is hereby amended to read as follows:

645D.900 1. A person who obtains or attempts to obtain a certificate ***or license*** by means of intentional misrepresentation, deceit or fraud is guilty of a category E felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court may impose a fine of not more than $10,000.

2. A person who:

(a) Holds himself or herself out as a certified inspector ~~[,]~~ ***or energy auditor;***

(b) Uses in connection with his or her name the words "licensed," "registered," "certified" or any other title, word, letter or other designation intended to imply or designate that he or she is a certified inspector ~~[,]~~ ***or energy auditor;*** or

(c) Describes or refers to any inspection report ***or energy audit*** prepared by him or her as "certified" or "licensed" in this state, without first obtaining a certificate ***or license*** as provided in this chapter,

➥ is guilty of a gross misdemeanor.

Sec. 29. ~~[~~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. *Register a person who meets the qualifications set forth in section 5 of this act as an energy auditor in this State.*~~

~~*8. Upon receipt of a report of an energy audit from an energy auditor submitted pursuant to subsection 2 of section 6 of this act, issue to the homeowner a certificate as proof of the completion of the energy audit by the energy auditor.*~~

~~*9.* Carry out all other directives concerning energy that are prescribed by the Governor.~~**] (Deleted by amendment.)**

Sec. 30. NRS 113.115 and 701.250 are hereby repealed.

Sec. 31. Any regulations adopted by the Nevada Energy Commissioner pursuant to NRS 701.250 are void. The Legislative Counsel shall remove those regulations from the Nevada Administrative Code as soon as practicable after ~~[July 1, 2011.]~~ **the effective date of this section.**

Sec. 32. The Real Estate Division of the Department of Business and Industry and the Director of the Office of Energy shall, on or before July 1,

2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 33. 1. This ~~[act becomes]~~ **section and sections 30, 31 and 32 of this act become effective upon passage and approval.**

2. Sections 1 to 29, inclusive, of this act become effective on July 1, 2011.

~~[2.]~~ **3.** Section 17 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

~~[3.]~~ **4.** Section 26 of this act expires by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

TEXT OF REPEALED SECTIONS

113.115 Seller to provide evaluation of energy consumption of property; limitations.

1. Except as otherwise provided in subsection 3, the seller shall have the energy consumption of the residential property evaluated pursuant to the program established in NRS 701.250.

2. Except as otherwise provided in subsection 4, before closing a transaction for the conveyance of residential property, the seller shall serve the purchaser with the completed evaluation required pursuant to subsection 1, if any, on a form to be provided by the Nevada Energy Commissioner, as prescribed in regulations adopted pursuant to NRS 701.250.

3. Subsection 1 does not apply to a sale or intended sale of residential property:

(a) By foreclosure pursuant to chapter 107 of NRS.

(b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.

(c) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person

who relocates to another county, state or country before title to the property is transferred to a purchaser.

(d) If the seller and purchaser agree to waive the requirements of subsection 1.

4. If an evaluation of a residential property was completed not more than 5 years before the seller and purchaser entered into the agreement to purchase the residential property, the seller may serve the purchaser with that evaluation.

701.250 Program to evaluate energy consumption of residential property.

1. The Commissioner shall adopt regulations establishing a program for evaluating the energy consumption of residential property in this State.

2. The regulations must include, without limitation:

(a) Standards for evaluating the energy consumption of residential property; and

(b) Provisions prescribing a form to be used pursuant to NRS 113.115, including, without limitation, provisions that require a portion of the form to provide information on programs created pursuant to NRS 702.275 and other programs of improving energy conservation and energy efficiency in residential property.

3. As used in this section:

(a) "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.

(b) "Residential property" means any land in this State to which is affixed not less than one or more than four dwelling units.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 463.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 361.

AN ACT relating to motor vehicles; providing an expedited process for the forfeiture of certain seized vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the seizure and forfeiture of certain vehicles, including vehicles which have or which contain a part that has an identification number or mark that has been falsely attached, removed, defaced, altered or obliterated. (NRS 482.540) **Sections 2 and 3 of this bill add certain vehicles which have been illegally altered in a manner that**

impairs the structural integrity of the vehicles to the vehicles which are subject to seizure and forfeiture.

Section ~~[1 of this bill]~~ 3 requires a court to schedule a hearing for the forfeiture of such a **seized** vehicle not later than 7 business days after an action for forfeiture is filed. **Section ~~[1]~~ 3** also requires the court to: (1) order **the release of the vehicle to** the owner of the vehicle **~~[~~, if the owner can be identified, to pay the cost of towing and storing the vehicle;~~]~~** or **to another person who the court determines is entitled to the vehicle if the court finds that an identification number or mark which was placed on the vehicle has not been falsely attached, removed, defaced, altered or obliterated and the vehicle has not been illegally altered in a manner that impairs the structural integrity of the vehicle; or** (2) **~~[~~declare~~]~~ order** the vehicle **~~[~~forfeited~~]~~ to be destroyed or otherwise disposed of** if **~~[~~the owner of the vehicle cannot after due diligence be found.~~]~~ there is no satisfactory evidence of ownership, an identification number or mark which was placed on the vehicle has been falsely attached, removed, defaced, altered or obliterated or the vehicle has been illegally altered in a manner that impairs the structural integrity of the vehicle.**

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

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

~~1. If a vehicle is seized pursuant to NRS 482.540, the Department may file a civil action for forfeiture of the vehicle:~~

~~(a) Pursuant to paragraph (c) of subsection 1 of NRS 4.370 in the justice court of the township where the vehicle which is the subject of the action was seized if the fair market value of the vehicle and the cost of towing and storing the vehicle does not exceed $10,000; or~~

~~(b) In the district court for the county where the vehicle which is the subject of the action was seized if the fair market value of the vehicle and the cost of towing and storing the vehicle exceeds $10,000.~~

~~2. Upon the filing of a civil action pursuant to subsection 1, the court shall schedule a date for a hearing. The hearing must be held not later than 7 business days after the action is filed. The court shall affix the date of the hearing on a form for that purpose and order a copy served by the sheriff, constable or other process server upon each claimant whose identity is known to the Department or who can be identified through the exercise of due diligence.~~

~~3. The court shall:~~

~~(a) Determine the actual cost incurred in towing and storing the vehicle; and~~

~~(b) If the court determines pursuant to subsection 2 of NRS 482.542 that the rightful owner of the vehicle:~~

~~*(1) Cannot after due diligence be found, declare the vehicle forfeited; or*~~

~~*(2) Can be identified, order the owner of the vehicle to pay the cost of towing and storing the vehicle and order the person who is storing the vehicle to immediately release the vehicle to the owner.*~~

~~*4. As used in this section, "claimant" means any person who claims to have:*~~

~~*(a) Any right, title or interest of record in the property or proceeds subject to forfeiture;*~~

~~*(b) Any community property interest in the property or proceeds; or*~~

~~*(c) Had possession of the property or proceeds at the time of the seizure thereof by the plaintiff.]*~~ **(Deleted by amendment.)**

Sec. 2. NRS 482.540 is hereby amended to read as follows:

482.540 1. Any police officer, without a warrant, may seize and take possession of any vehicle:

(a) Which is being operated with improper registration;

(b) Which the ***police*** officer has probable cause to believe has been stolen;

(c) ***Which the police officer has probable cause to believe has been illegally altered in a manner that impairs the structural integrity of the vehicle;***

(d) On which any motor number, manufacturer's number or identification mark has been falsely attached, removed, defaced, altered or obliterated; or

~~[(d)]~~ ***(e)*** Which contains a part on which was placed or stamped by the manufacturer pursuant to federal law or regulation an identification number or other distinguishing number or mark that has been falsely attached, removed, defaced, altered or obliterated.

2. A law enforcement agency or an employee of the Department whose primary responsibility is to conduct investigations involving the theft of motor vehicles shall inspect any vehicle seized pursuant to paragraph ~~[(c) or]~~ (d) ***or (e)*** of subsection 1 to determine whether the number or mark in question on the vehicle or part from the vehicle has been falsely attached, removed, defaced, altered or obliterated and whether any person has presented satisfactory evidence of ownership of the vehicle. The agency or employee shall prepare a written report which sets forth the results of the inspection within 30 days after the vehicle is seized.

3. If the results of the report conclude that the number or mark in question has been falsely attached, removed, defaced, altered or obliterated and that there is no satisfactory evidence of ownership, the court shall declare ~~*[determines that the rightful owner of the vehicle cannot be identified and declares]*~~ the vehicle forfeited and ~~*[pursuant to section 1 of this act, the Department may]*~~ proceed in the manner set forth in ~~*[subsection 3 of]*~~ NRS 482.542.

4. A person must not be charged with any criminal act which caused a motor vehicle to be seized pursuant to paragraph ~~[(c) or]~~ (d) ***or (e)*** of subsection 1 until the report is completed pursuant to subsection 2.

5. As used in this section, "police officer" means:

(a) Any peace officer of the Department;

(b) Sheriffs of counties and officers of metropolitan police departments and their deputies; and

(c) Marshals and police officers of cities and towns.

Sec. 3. **NRS 482.542 is hereby amended to read as follows:**

482.542 1. Any vehicle seized pursuant to NRS 482.540 may be removed by ***a law enforcement agency or*** the Department to:

(a) A place designated for the storage of seized property.

(b) An appropriate place for disposal if that disposal is specifically authorized by statute.

2. If disposal of ~~[the]~~ ***a*** vehicle ***seized pursuant to NRS 482.540*** is not specifically authorized by statute, ~~[the vehicle is subject to forfeiture if it appears to the court having jurisdiction over the proceedings that the rightful owner of the vehicle cannot after due diligence be found.]~~ ***a law enforcement agency or the Department may file a civil action for forfeiture of the vehicle:***

(a) Pursuant to paragraph (c) of subsection 1 of NRS 4.370 in the justice court of the township where the vehicle which is the subject of the action was seized if the fair market value of the vehicle and the cost of towing and storing the vehicle does not exceed $10,000; or

(b) In the district court for the county where the vehicle which is the subject of the action was seized if the fair market value of the vehicle and the cost of towing and storing the vehicle equals or exceeds $10,000.

3. Upon the filing of a civil action pursuant to subsection 2, the court shall schedule a date for a hearing. The hearing must be held not later than 7 business days after the action is filed. The court shall affix the date of the hearing on a form for that purpose and order a copy served by the sheriff, constable or other process server upon each claimant whose identity is known to the law enforcement agency or Department or who can be identified through the exercise of due diligence.

4. The court shall:

(a) Order the release of the vehicle to the owner or to another person who the court determines is entitled to the vehicle if the court finds that:

(1) A motor number, manufacturer's number or identification mark which was placed on the vehicle has not been falsely attached, removed, defaced, altered or obliterated; and

(2) The vehicle has not been illegally altered in a manner that impairs the structural integrity of the vehicle; or

(b) Order the vehicle destroyed or otherwise disposed of as determined by the court, if the court finds that:

(1) There is no satisfactory evidence of ownership;

(2) A motor number, manufacturer's number or identification mark which was placed on the vehicle has been falsely attached, removed, defaced, altered or obliterated; or

(3) The vehicle has been illegally altered in a manner that impairs the structural integrity of the vehicle.

~~[3.]~~ ***5.*** If a court declares that a vehicle seized pursuant to NRS 482.540 is forfeited, ***a law enforcement agency or*** the Department may:

(a) Retain it for official use;

(b) Sell it; or

(c) Remove it for disposal.

~~[4. If at any time after a vehicle is seized pursuant to NRS 482.540 the rightful owner of the vehicle demands its return, the Department shall:~~

~~(a) Return the vehicle to the owner; or~~

~~(b) If the vehicle was declared forfeited by a court and subsequently sold or removed for disposal, pay to the owner the fair market value of the vehicle at the time of forfeiture.]~~

6. As used in this section, "claimant" means any person who claims to have:

(a) Any right, title or interest of record in the property or proceeds subject to forfeiture;

(b) Any community property interest in the property or proceeds; or

(c) Had possession of the property or proceeds at the time of the seizure thereof by a law enforcement agency or the Department.

~~[Sec. 3.]~~ ***Sec. 4.*** 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. 469.

Bill read second time.

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

Amendment No. 410.

AN ACT relating to governmental administration; authorizing the leasing of unused state buildings ~~[, grounds and property]~~ to new businesses seeking to locate or expand in this State; authorizing local governments to enter into agreements with one another to advertise for contracts and make purchasing agreements together; requiring **certain** school districts to advertise for bids for the provision of certain services in the school district; authorizing local governments to award contracts based in part upon the best value offered; **exempting the leasing of certain state-owned property from certain appraisal and procedural requirements; authorizing the leasing of state-owned lands to new businesses seeking to locate or expand in this State;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law grants the Chief of the Buildings and Grounds Division of the Department of Administration the authority to manage all state buildings, grounds and properties not otherwise provided for by law, including

collecting rent from any state department, agency ~~[or institution]~~ **, board or commission** that is renting space in a state building or property. (NRS 331.070, 331.102) **Section 1** of this bill requires each state department, agency ~~[or institution]~~ **, board or commission** to submit an inventory of any ~~[state]~~ **state-owned** buildings ~~[, grounds or properties]~~ assigned to it ~~[which it is not actively using,]~~ **together with a statement of whether the building is used or unused** and requires **the Division of State Lands of the State Department of Conservation and Natural Resources, the Department of Transportation and the State Public Works Board to provide to** the Chief **an inventory of all real property owned by the State and to identify properties that are used, unused or planned for future use. Section 1 further requires the Chief** to compile those inventories into a list of ~~[unused state]~~ **all state-owned** buildings ~~[, grounds and properties. Section 1 further requires the Chief]~~ **and** to ~~[make]~~ **provide** that list ~~[available]~~ to the Commission on Economic Development **.** ~~[and to authorize]~~ **Finally, section 1 authorizes** the ~~[Commission]~~ **Chief** to lease the available ~~[state]~~ **state-owned** buildings ~~[, grounds and properties]~~ to new businesses seeking to locate or expand in this State ~~[. Section 1 also authorizes the Commission]~~ **and** to offer a discount on the first year of the lease to the business, but requires any lease to be for a term of at least ~~[10]~~ **5** years. **Section 2** of this bill authorizes the Chief to enter into any leases or arrangements to make use of state-owned buildings ~~[, grounds and properties]~~ for purposes other than economic development.

Existing law sets forth the procedures a local government must follow to advertise for bids for contracts or to enter into purchasing agreements. (NRS 332.039-332.225) **Section 4** of this bill authorizes local governments to enter into agreements with each other to mutually advertise for bids or enter into purchasing agreements or exercise authorized purchasing powers to maximize their efficiency and economy. **Section 7** of this bill revises the considerations a local government must take into account when considering bids, and requires the local government to consider which bid provides the best value rather than just which is lowest, where best value includes not only cost but also the greatest possible economy consistent with the quality and sustainability of the materials, supplies, equipment and services.

Section 5 of this bill requires county school districts **in counties whose population is less than 45,000 (currently Churchill, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Mineral, Nye, Pershing, Storey and White Pine Counties)** to advertise for bids for persons not employed by the school district to provide services such as custodial services, maintenance and transportation at least once every 5 years, and **section 8** of this bill requires the school district to file an annual report with the Legislature or Interim Finance Committee about each contract awarded, or if no contract was awarded, the reasons for not awarding a contract and a comparison of the lowest responsive bid and the cost incurred by the school district in providing the service itself.

Existing law requires certain state lands to be appraised before those lands may be sold or leased and sets forth procedures for the manner in which the State Land Registrar must put land up for sale or lease. Certain leases and sales of land are exempted from these requirements and procedures by existing law. (NRS 321.007, 321.335) Sections 9 and 10 of this bill additionally exempt from those requirements and procedures land which is leased for the purpose of economic development and leases which involve less than 25,000 square feet of land. Section 11 of this bill authorizes land to be leased to a business seeking to locate or expand in this State for a discount for the first year in business and for a term of at least 10 years.

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

Section 1. Chapter 331 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any other requirement imposed on a state department, agency ~~[or institution]~~ , board or commission pursuant to this chapter, on or ~~[before]~~ after April 1 but not later than June 30 of each year ~~[, each]~~ :

(a) Each state department, agency ~~[or institution]~~ , board or commission shall submit to the Chief an inventory of ~~[any state]~~ all used and unused building space within state-owned buildings ~~[, grounds and properties]~~ assigned to the state department, agency ~~[or institution which the state department, agency or institution is not actively using.]~~ , board or commission; and

(b) The Division of State Lands of the State Department of Conservation and Natural Resources, the Department of Transportation and the State Public Works Board shall provide to the Chief an inventory of all real property owned by the State and identify which properties:

(1) Are being actively used;

(2) Are not being actively used; and

(3) For which future use is planned.

2. Based upon the inventories submitted pursuant to subsection 1 and any other information available to him or her, the Chief shall ~~[:~~

~~(a) Compile a list of all state buildings, grounds and properties which are not being actively used; and~~

~~(b) Make the list available]~~ provide a list of all state-owned buildings and lands to the Commission on Economic Development.

3. The Chief ~~[shall authorize the Commission on Economic Development to]~~ may enter into agreements to lease ~~[the state]~~ state-owned buildings ~~[, grounds and properties]~~ which are not being actively used or for which future use is planned to new businesses seeking to locate or expand in this State.

4. Any lease or agreement into which the ~~[Commission on Economic Development]~~ Chief enters pursuant to subsection 3:

(a) Must be for a term of at least ~~[10]~~ 5 years; ~~[and]~~

(b) Must be approved by the Executive Director of the Commission on Economic Development; and

(c) May include a discount to the business for the first year, including, without limitation, an offer to lease the ~~[state]~~ state-owned building ~~[, ground or property]~~ without the payment of rent for the first year the business is in this State.

Sec. 2. NRS 331.090 is hereby amended to read as follows:

331.090 ***1.*** The Chief may accept rent money from various departments ~~[, and]~~ agencies ***and nongovernmental entities*** that are occupying space in the various state-owned buildings. The rent money must be deposited in the Buildings and Grounds Operating Fund in the State Treasury.

2. Notwithstanding any other provision of law to the contrary, the Chief ~~[shall]~~ may make any necessary arrangements to enter into any leases or other agreements for the use of ~~[state]~~ state-owned buildings ~~[, grounds and properties]~~ for purposes other than economic development.

Sec. 3. Chapter 332 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. ***1. A local government may enter into agreements with other local governments to mutually advertise for or request bids and enter into contracts pursuant to NRS 332.039 to 332.148, inclusive.***

2. A local government may enter into agreements with other local governments to combine their resources to enter into purchasing agreements or for any other purchasing decisions or powers authorized by this chapter.

Sec. 5. ***1. At least once every 5 years, each school district in ~~[this State]~~ a county whose population is less than 45,000 shall advertise for or request bids from persons who are not then employed by the school district to provide the following services:***

(a) Custodial services;

(b) Food service management;

(c) Ground maintenance;

(d) Facility maintenance; and

(e) Transportation services.

2. In addition to any other requirements set forth in this chapter, each advertisement or request for bids pursuant to this section must be conducted in such a manner as to ensure that any contract awarded does not violate the provisions of:

(a) A contract between the school district and a person not then employed by the school district to provide any of the services in subsection 1 which is in effect as of the date of the advertisement or request for bids; or

(b) A collective bargaining agreement between the school district and its employees which was in effect on or before July 1, 2011.

Sec. 6. NRS 332.025 is hereby amended to read as follows:

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

1. "Authorized representative" means a person designated by the governing body to be responsible for the development, award and proper administration of all purchases and contracts for a local government or a department, division, agency, board or unit of a local government made pursuant to this chapter.

2. "Chief administrative officer" means the person directly responsible to the governing body for the administration of that particular entity.

3. "Evaluator" means an authorized representative, officer, employee, representative, agent, consultant or member of a governing body who has participated in:

(a) The evaluation of bids;

(b) Negotiations concerning purchasing by a local government; or

(c) The review or approval of the award, modification or extension of a contract.

4. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of the local government are vested.

5. "Proprietary information" means:

(a) Any trade secret or confidential business information that is contained in a bid submitted to a governing body or its authorized representative on a particular contract; or

(b) Any other trade secret or confidential business information submitted to a governing body or its authorized representative by a bidder and designated as proprietary by the governing body or its authorized representative.

➥ As used in this subsection, "confidential business information" means any information relating to the amount or source of any income, profits, losses or expenditures of a person, including data relating to cost, price, or the customers of a bidder which is submitted in support of a bid. The term does not include the amount of a bid submitted to a governing body or its authorized representative.

6. "***Request for bids" includes, without limitation, an invitation to bid, a request for proposals, a request for statements of qualifications, a request for quotes or any other accepted method of solicitation that complies with the provisions of this chapter.***

7. "School district" means a county school district created pursuant to NRS 386.010.

~~[7.]~~ ***8.*** **"**Trade secret" has the meaning ascribed to it in NRS 600A.030.

Sec. 7. NRS 332.065 is hereby amended to read as follows:

332.065 1. If a governing body or its authorized representative has advertised for or requested bids in letting a contract, the governing body or its authorized representative must, except as otherwise provided in subsection 2, ***3 or 4,*** award the contract to the lowest responsive and responsible bidder ~~[.]~~ ***who meets the minimum requirements set forth in the advertisement or***

request. The lowest responsive and responsible bidder may be judged on the basis of:

(a) Price;

(b) Conformance to specifications;

(c) Qualifications;

(d) Past performance;

(e) Performance ***schedule*** or delivery date;

(f) Quality and utility of services, supplies, materials or equipment offered and the adaptability of those services, supplies, materials or equipment to the required purpose of the contract;

(g) ***The total cost of ownership of the goods to be supplied;***

(h) The purposes for which the goods to be supplied are required;

(i) Best value provided;

(j) The best interests of the public; and

~~[(h)]~~ ***(k)*** Such other criteria as may be set forth by the governing body or its authorized representative in the advertisement or request for bids, as applicable, that pertains to the contract.

2. ***An advertisement or request for bids must include minimum requirements that the lowest responsive and responsible bidder must substantially meet to be awarded a contract pursuant to the provisions of this chapter.***

3. The governing body or its authorized representative shall evaluate proposals and award the contract based on the criteria set forth in the request for proposals and is not required to select the lowest priced proposal. The contract terms and pricing are subject to negotiation.

4. The governing body or its authorized representative:

(a) Shall give preference to recycled products if:

(1) The product meets the applicable standards;

(2) The product can be substituted for a comparable nonrecycled product; and

(3) The product costs no more than a comparable nonrecycled product.

(b) May give preference to recycled products if:

(1) The product meets the applicable standards;

(2) The product can be substituted for a comparable nonrecycled product; and

(3) The product costs no more than 5 percent more than a comparable nonrecycled product.

(c) May purchase recycled paper products if the specific recycled paper product is:

(1) Available at a price which is not more than 10 percent higher than that of paper products made from virgin material;

(2) Of adequate quality; and

(3) Available to the purchaser within a reasonable period.

~~[3.]~~ ***5.*** If after the lowest responsive and responsible bidder has been awarded the contract, during the term of the contract he or she does not

supply goods or services in accordance with the bid specifications, or if he or she repudiates the contract, the governing body or its authorized representative may reaward the contract to the next lowest responsive and responsible bidder without requiring that new bids be submitted. Reawarding the contract to the next lowest responsive and responsible bidder is not a waiver of any liability of the initial bidder awarded the contract.

~~[4.]~~ ***6.*** As used in this section:

(a) "***Best value" means the greatest possible economy consistent with the grades, qualities or sustainability attributes of supplies, materials, equipment and services.***

(b) **"**Postconsumer waste" means a finished material which would normally be disposed of as a solid waste having completed its life cycle as a consumer item.

~~[(b)]~~ ***(c)*** **"**Recycled paper product" means all paper and wood-pulp products containing in some combination at least 50 percent of its total weight:

(1) Postconsumer waste; and

(2) Secondary waste,

➥ but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

~~[(c)]~~ ***(d)*** **"**Secondary waste" means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value.

(e) "Total cost of ownership" means the monetary and other costs associated with goods being supplied, including, without limitation:

(1) The history of maintenance or repair of the goods;

(2) The cost of routine maintenance and repair of the goods;

(3) Any warranties provided in connection with the goods;

(4) The cost of replacement parts for the goods; and

(5) The value of the goods as used goods when given in trade on a subsequent purchase.

Sec. 8. NRS 332.431 is hereby amended to read as follows:

332.431 1. Each local government that enters into a performance contract pursuant to NRS 332.300 to 332.440, inclusive, shall, on or before February 1 of each year, prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature if the Legislature is in session, or to the Interim Finance Committee if the Legislature is not in session.

2. The report required pursuant to subsection 1 must include, without limitation:

(a) The status of the construction and financing of the operating cost-savings measures described in the performance contract.

(b) The cumulative amount of operating cost-savings that have resulted from the operating cost-savings measures.

(c) The amount of operating cost-savings that are projected for the future.

(d) Any other information required by the Legislature or Interim Finance Committee.

3. Each school district in a county whose population is less than 45,000 shall, on or before February 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature if the Legislature is in session, or to the Interim Finance Committee if the Legislature is not in session, a report which must include, without limitation:

(a) A list of all advertisements and requests for bids made pursuant to section 5 of this act;

(b) A summary of all contracts awarded, including, without limitation, the name of the person to whom the contract was awarded; and

(c) If a contract was not awarded for any services listed in section 5 of this act:

(1) An explanation of the reason for not awarding a contract; and

(2) A comparison of the lowest responsive and responsible bid or response received and the cost incurred by the school district to provide the service itself.

Sec. 9. **NRS 321.007 is hereby amended to read as follows:**

321.007 1. Except as otherwise provided in subsection 5, NRS 322.063, 322.065 or 322.075, except as otherwise required by federal law, except for land that is sold or leased to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for land that is sold or leased to a state or local governmental entity, except for a lease which is part of a contract entered into pursuant to chapter 333 of NRS ***, except for a lease which is entered into for the purpose of economic development pursuant to chapter 322 of NRS, except for a lease which involves less than 25,000 square feet of land*** and except for land that is sold or leased pursuant to an agreement entered into pursuant to NRS 277.080 to 277.170, inclusive, when offering any land for sale or lease, the State Land Registrar shall:

(a) Except as otherwise provided in this paragraph, obtain two independent appraisals of the land before selling or leasing it. If the Interim Finance Committee grants its approval after discussion of the fair market value of the land, one independent appraisal of the land is sufficient before selling or leasing it. The appraisal or appraisals, as applicable, must have been prepared not more than 6 months before the date on which the land is offered for sale or lease.

(b) Notwithstanding the provisions of chapter 333 of NRS, select the one independent appraiser or two independent appraisers, as applicable, from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the State Land Registrar as to the qualifications of an appraiser is conclusive.

2. The State Land Registrar shall adopt regulations for the procedures for creating or amending a list of appraisers qualified to conduct appraisals of land offered for sale or lease by the State Land Registrar. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the land that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the owner of the land or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any land offered for sale or lease by the State Land Registrar if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the land or an adjoining property.

5. If a lease of land is for residential property and the term of the lease is 1 year or less, the State Land Registrar shall obtain an analysis of the market value of similar rental properties prepared by a licensed real estate broker or salesperson when offering such a property for lease.

6. If land is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the land is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 10. **NRS 321.335 is hereby amended to read as follows:**

321.335 1. Except as otherwise provided in NRS 321.125, 322.063, 322.065 or 322.075, except as otherwise required by federal law, except for land that is sold or leased to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for land that is sold or leased to a state or local governmental entity, except for a lease which is part of a contract entered into pursuant to chapter 333 of NRS ***, except for a lease which is entered into for the purpose of economic development pursuant to chapter 322 of NRS, except for a lease which involves less than 25,000 square feet of land*** and except for an agreement entered into pursuant to the provisions of NRS 277.080 to 277.170, inclusive, or a lease of residential property with a term of 1 year or less, after April 1, 1957, all sales or leases of any lands that the Division is required to hold pursuant to NRS 321.001, including lands subject to contracts of sale that have been forfeited, are governed by the provisions of this section.

2. Whenever the State Land Registrar deems it to be in the best interests of the State of Nevada that any lands owned by the State and not used or set apart for public purposes be sold or leased, the State Land Registrar may,

with the approval of the State Board of Examiners and the Interim Finance Committee, cause those lands to be sold or leased upon sealed bids, or oral offer after the opening of sealed bids for cash or pursuant to a contract of sale or lease, at a price not less than the highest appraised value for the lands plus the costs of appraisal and publication of notice of sale or lease.

3. Before offering any land for sale or lease, the State Land Registrar shall comply with the provisions of NRS 321.007.

4. After complying with the provisions of NRS 321.007, the State Land Registrar shall cause a notice of sale or lease to be published once a week for 4 consecutive weeks in a newspaper of general circulation published in the county where the land to be sold or leased is situated, and in such other newspapers as the State Land Registrar deems appropriate. If there is no newspaper published in the county where the land to be sold or leased is situated, the notice must be so published in a newspaper published in this State having a general circulation in the county where the land is situated.

5. The notice must contain:

(a) A description of the land to be sold or leased;

(b) A statement of the terms of sale or lease;

(c) A statement that the land will be sold pursuant to subsection 6; and

(d) The place where the sealed bids will be accepted, the first and last days on which the sealed bids will be accepted, and the time when and place where the sealed bids will be opened and oral offers submitted pursuant to subsection 6 will be accepted.

6. At the time and place fixed in the notice published pursuant to subsection 4, all sealed bids which have been received must, in public session, be opened, examined and declared by the State Land Registrar. Of the proposals submitted which conform to all terms and conditions specified in the notice published pursuant to subsection 4 and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral offer is accepted or the State Land Registrar rejects all bids and offers. Before finally accepting any written bid, the State Land Registrar shall call for oral offers. If, upon the call for oral offers, any responsible person offers to buy or lease the land upon the terms and conditions specified in the notice, for a price exceeding by at least 5 percent the highest written bid, then the highest oral offer which is made by a responsible person must be finally accepted.

7. The State Land Registrar may reject any bid or oral offer to purchase or lease submitted pursuant to subsection 6, if the State Land Registrar deems the bid or offer to be:

(a) Contrary to the public interest.

(b) For a lesser amount than is reasonable for the land involved.

(c) On lands which it may be more beneficial for the State to reserve.

(d) On lands which are requested by the State of Nevada or any department, agency or institution thereof.

8. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of sale specified in the notice of sale, the State Land Registrar shall convey title by quitclaim or cause a patent to be issued as provided in NRS 321.320 and 321.330.

9. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of lease specified in the notice of lease, the State Land Registrar shall enter into a lease agreement with the person submitting the accepted bid or oral offer pursuant to the terms of lease specified in the notice of lease.

10. The State Land Registrar may require any person requesting that state land be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the State Land Registrar in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

11. If land that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the land, the State Land Registrar may offer the land for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the land, the State Land Registrar must, as applicable, obtain a new appraisal or new appraisals of the land pursuant to the provisions of NRS 321.007 before offering the land for sale or lease a second time. If land that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the land, the State Land Registrar may list the land for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the land or an adjoining property.

Sec. 11. **Chapter 322 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Land may be leased pursuant to NRS 322.060 to a business seeking to locate or expand in this State for a discount to the business for the first year including, without limitation, an offer to lease the land without the payment of rent for the first year the business is in this State.

2. To lease property pursuant to this section, the following persons must approve the lease and establish the recommended amount of rent to be received for the property:

(a) The Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio State Land Registrar;

(b) The Chief of the Buildings and Grounds Division of the Department of Administration; and

(c) The Executive Director of the Commission on Economic Development.

3. Any lease or agreement entered into pursuant to this section must be for a term of at least 10 years.

Sec. 12. **NRS 322.060 is hereby amended to read as follows:**

322.060 Subject to the provisions of NRS 321.335, leases or easements authorized pursuant to the provisions of NRS 322.050, and not made for the purpose of extracting oil, coal or gas or the utilization of geothermal resources from the lands leased, must be:

1. For such areas as may be required to accomplish the purpose for which the land is leased or the easement granted.

2. Except as otherwise provided in NRS 322.063, 322.065 and 322.067, ***and section 11 of this act,*** for such term and consideration as the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio State Land Registrar, may determine reasonable based upon the fair market value of the land.

3. Executed upon a form to be prepared by the Attorney General. The form must contain all of the covenants and agreements usual or necessary to such leases or easements.

~~[Sec. 9.]~~ ***Sec. 13.*** 1. Except as otherwise provided in subsection 2, each school district in ~~[this State]~~ **a county whose population is less than 45,000** shall advertise for or request bids from persons who are not then employed by the school district to provide the services listed in section 5 of this act on or before December 31, ~~[2011.]~~ **2013.**

2. If a school district **in a county whose population is less than 45,000** is subject to an existing contract for the provision of the services listed in section 5 of this act, the school district is not required to advertise for or request bids for the provision of those services until after the expiration of the existing contract.

~~[Sec. 10.]~~ ***Sec. 14.*** This act becomes effective on July 1, 2011.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 505.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 313.

AN ACT relating to governmental financial administration; requiring the Director of the Department of Administration to prepare and send a report of tax expenditures to the Governor and the Legislature; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the Director of the Department of Administration to prepare and send a report of tax expenditures to the Governor and to the Legislature in November of each even-numbered year. A "tax expenditure" is defined as any law of this State that exempts, in whole or in part, certain persons, income, goods, services or property from the impact of established taxes. The report must include certain information regarding each such tax expenditure, including a description of the tax expenditure, the year the tax expenditure was enacted, the purpose of the tax expenditure, any subsequent amendments to the tax expenditure and **, to the extent that the pertinent information is available,** estimates of: (1) the fiscal impact of the tax expenditure on both the State and local governments; (2) the number of taxpayers benefitting from the tax expenditure; and (3) the revenue that would result from repeal of the tax expenditure.

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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On or before November 10 of each even-numbered year, the Director of the Department of Administration shall submit a tax expenditure report to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Legislature and the appropriate interim committee or committees of the Legislature.

2. The report required pursuant to subsection 1 must provide, for each tax expenditure:

(a) A description of the tax expenditure;

(b) The year in which the tax expenditure was enacted;

(c) The purpose for which the tax expenditure was enacted;

(d) A summary of any amendments to the tax expenditure since it was enacted; ~~*[and]*~~

(e) ~~*[Estimates]*~~ ***To the extent that the pertinent information is available, estimates of:***

(1) The fiscal impact to this State and local governments of the tax expenditure during each fiscal year of the biennium in which the report is prepared;

(2) The revenue that would result from repeal of the tax expenditure; and

(3) The number of taxpayers receiving benefit from the tax expenditure ~~*[.]*~~ ***; and***

(f) A statement of:

(1) The pertinent information, if any, which is not available to prepare the estimates required by paragraph (e); and

(2) The reasons for the unavailability of that information.

3. Each state entity, county treasurer and county assessor shall respond fully and appropriately to any request for information made by the Director

of the Department of Administration for use in the report required by this section not later than 30 days after such a request is made.

4. As used in this section, "tax expenditure" means any law of this State that exempts, in whole or in part, certain persons, income, goods, services or property from the impact of established taxes, including, without limitation, tax abatements, tax credits, tax deductions, tax deferrals, tax exemptions, tax exclusions, tax subtractions and preferential tax rates.

Sec. 2. The initial report required by section 1 of this act must be submitted on or before November 10, 2012.

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Munford moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 511.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 320.

AN ACT relating to transportation; providing certain privileges to the owner or long-term lessee of a qualified plug-in electric drive vehicle; authorizing in this State the operation of, and ~~[the alternative licensure of]~~ **a driver's license endorsement for** operators of, autonomous vehicles; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Department of Transportation to adopt regulations to allow certified low emission and energy-efficient vehicles to be operated in a lane on a highway under its jurisdiction designated for the preferential use or exclusive use of high-occupancy vehicles. (NRS 484A.463) **Section ~~[1]~~ 6** of this bill defines the term "qualified plug-in electric drive vehicle" in a manner substantially similar to the definition used by the Internal Revenue Service for the purpose of the tax credit made available for the initial acquisition of such vehicles**. ~~[and]~~ Section 7 of this bill requires that, with limited exceptions, each local authority shall establish a parking program for qualified plug-in electric drive vehicles. Section 7** provides that the owner or long-term lessee of such a vehicle may: (1) apply to the **~~[Department of Motor Vehicles]~~ local authority** for a distinctive decal, label or other identifier that distinguishes the vehicle from other vehicles; and (2) while displaying the distinctive identifier, park the vehicle without the payment of a parking fee **at certain times** in **certain** public parking lots, parking areas and metered parking zones**. ~~[, and use the]~~ Section 10 of this bill authorizes the use of a qualified plug-in electric drive** vehicle in high-occupancy vehicle lanes irrespective of the occupancy of the vehicle, if the Department of Transportation has adopted the necessary

regulations. **Section 13 of this bill causes the provisions of this bill that pertain to qualified plug-in electric drive vehicles to expire by limitation ("sunset") as of January 1, 2018.**

Section ~~[5]~~ 8 of this bill requires the Department of Motor Vehicles to adopt regulations authorizing the operation of autonomous vehicles on highways within the State of Nevada. **Section ~~[5]~~ 8** defines an "autonomous vehicle" to mean a motor vehicle that uses artificial intelligence, sensors and global positioning system coordinates to drive itself without the active intervention of a human operator. **Section 2** of this bill requires the Department, by regulation, to establish ~~[an alternative class of]~~ **a** driver's license **endorsement** for the operation of an autonomous vehicle on the highways of this State.

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

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

~~*1. Upon the application of the owner or long-term lessee of a qualified plug-in electric drive vehicle, the Department shall issue to the owner or long-term lessee a distinctive decal, label or other identifier that clearly distinguishes the qualified plug-in electric drive vehicle from other vehicles.*~~

~~*2. The Department may charge a fee for the distinctive decal, label or other identifier issued pursuant to subsection 1 in an amount that is sufficient to cover the costs of issuing the distinctive decal, label or other identifier.*~~

~~*3. The driver of a qualified plug-in electric drive vehicle displaying the distinctive decal, label or other identifier issued pursuant to subsection 1 may:*~~

~~*(a) Operate the qualified plug-in electric drive vehicle in a lane designated for the use of high-occupancy vehicles pursuant to NRS 484A.460, regardless of the number of occupants in the vehicle, if the Department of Transportation adopts regulations allowing such vehicles to be operated in such lanes in accordance with NRS 484A.463;*~~

~~*(b) Stop, stand or park the qualified plug-in electric drive vehicle in any metered parking zone without depositing a coin of United States currency of the designated denomination in the applicable parking meter; and*~~

~~*(c) Stop, stand or park the qualified plug-in electric drive vehicle in any public parking lot or parking area without paying a parking fee.*~~

~~*4. As used in this section, "qualified plug-in electric drive vehicle" means a motor vehicle that:*~~

~~*(a) Is equipped with four wheels;*~~

~~*(b) Is made by a manufacturer;*~~

~~*(c) Is manufactured primarily for use on public streets, roads and highways;*~~

~~*(d) Has a manufacturer's gross vehicle weight rating of less than 8,500 pounds;*~~

~~*(e) Can maintain a maximum rate of speed of at least 70 miles per hour; and*~~

~~*(f) Is propelled to a significant extent by an electric motor which draws electricity from a battery that:*~~

~~*(1) Has a capacity of not less than 4 kilowatt hours; and*~~

~~*(2) Can be recharged from a source of electricity that is external to the vehicle.]*~~ **(Deleted by amendment.)**

Sec. 2. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall by regulation establish ~~*[an alternative class of]*~~ ***a driver's license endorsement for the operation of an autonomous vehicle on the highways of this State. The*** ~~*[alternative class of]*~~ ***driver's license endorsement described in this subsection must, in its restrictions or lack thereof, recognize the fact that a person is not required to actively drive an autonomous vehicle.***

2. As used in this section, "autonomous vehicle" has the meaning ascribed to it in section ~~*[5]*~~ ***8 of this act.***

Sec. 3. NRS 483.230 is hereby amended to read as follows:

483.230 1. Except persons expressly exempted in NRS 483.010 to 483.630, inclusive, ***and section 2 of this act,*** a person shall not drive any motor vehicle upon a highway in this State unless such person has a valid license as a driver under the provisions of NRS 483.010 to 483.630, inclusive, ***and section 2 of this act*** for the type or class of vehicle being driven.

2. Any person licensed as a driver under the provisions of NRS 483.010 to 483.630, inclusive, ***and section 2 of this act*** may exercise the privilege thereby granted upon all streets and highways of this State and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board or body having authority to adopt local police regulations.

3. Except persons expressly exempted in NRS 483.010 to 483.630, inclusive, ***and section 2 of this act,*** a person shall not steer or exercise any degree of physical control of a vehicle being towed by a motor vehicle upon a highway unless such person has a license to drive the type or class of vehicle being towed.

4. A person shall not receive a driver's license until the person surrenders to the Department all valid licenses in his or her possession issued to the person by this or any other jurisdiction. Surrendered licenses issued by another jurisdiction shall be returned by the Department to such jurisdiction. A person shall not have more than one valid driver's license.

Sec. 4. NRS 483.620 is hereby amended to read as follows:

483.620 It is a misdemeanor for any person to violate any of the provisions of NRS 483.010 to 483.630, inclusive, ***and section 2 of this act***

unless such violation is, by NRS 483.010 to 483.630, inclusive, ***and section 2 of this act*** or other law of this State, declared to be a felony.

Sec. 5. **Chapter 484A of NRS is hereby amended by adding thereto** ~~[a new section to read as follows:]~~ **the provisions set forth as sections 6, 7 and 8 of this act.**

Sec. 6. ***"Qualified plug-in electric drive vehicle" means a motor vehicle that:***

1. Is equipped with four wheels;

2. Is made by a manufacturer;

3. Is manufactured primarily for use on public streets, roads and highways;

4. Has a manufacturer's gross vehicle weight rating of less than 8,500 pounds;

5. Can maintain a maximum rate of speed of at least 70 miles per hour; and

6. Is propelled to a significant extent by an electric motor which draws electricity from a battery that:

(a) Has a capacity of not less than 4 kilowatt hours; and

(b) Can be recharged from a source of electricity that is external to the vehicle.

Sec. 7. ***1. Except as otherwise provided in subsection 6, a local authority that has within its jurisdiction a public metered parking zone, parking lot or parking area for the use of which a fee is charged, shall by ordinance establish a parking program for qualified plug-in electric drive vehicles pursuant to this section.***

2. Upon the application of the owner or long-term lessee of a qualified plug-in electric drive vehicle, the local authority or its designee shall issue to the owner or long-term lessee a distinctive decal, label or other identifier that clearly distinguishes the qualified plug-in electric drive vehicle from other vehicles.

3. The local authority may charge a fee for the distinctive decal, label or other identifier issued pursuant to subsection 2 in an amount not to exceed $10 annually.

4. Except as otherwise provided in subsection 5, the driver of a qualified plug-in electric drive vehicle displaying the distinctive decal, label or other identifier issued pursuant to subsection 2 may:

(a) Stop, stand or park the qualified plug-in electric drive vehicle in any public metered parking zone within the jurisdiction of the local authority without depositing a coin of United States currency of the designated denomination, or making payment using another acceptable method of payment, in the applicable parking meter; and

(b) Stop, stand or park the qualified plug-in electric drive vehicle in any public parking lot or parking area within the jurisdiction of the local authority without paying a parking fee.

5. In addition to the requirements set forth in this section, the local authority may by ordinance establish such other requirements as it determines necessary for the parking program for qualified plug-in electric drive vehicles, including, without limitation:

(a) Requiring that the driver of a qualified plug-in electric drive vehicle comply with any limits on the amount of time for stopping, standing or parking imposed on other drivers; and

(b) Requiring that the driver of a qualified plug-in electric drive vehicle pay applicable parking fees during certain special events or activities designated by the local authority, regardless of whether the vehicle displays a distinctive decal, label or other identifier issued pursuant to subsection 2.

6. The provisions of this section do not apply to any public metered parking zone, parking lot or parking area of an airport.

Sec. 8. 1. The Department shall adopt regulations authorizing the operation of autonomous vehicles on highways within the State of Nevada.

2. The regulations required to be adopted by subsection 1 must:

(a) Set forth requirements that an autonomous vehicle must meet before it may be operated on a highway within this State;

(b) Set forth requirements for the insurance that is required to test or operate an autonomous vehicle on a highway within this State;

(c) Establish minimum safety standards for autonomous vehicles and their operation;

(d) Provide for the testing of autonomous vehicles;

(e) Restrict the testing of autonomous vehicles to specified geographic areas; and

(f) Set forth such other requirements as the Department determines to be necessary.

3. As used in this section:

(a) "Artificial intelligence" means the use of computers and related equipment to enable a machine to duplicate or mimic the behavior of human beings.

(b) "Autonomous vehicle" means a motor vehicle that uses artificial intelligence, sensors and global positioning system coordinates to drive itself without the active intervention of a human operator.

(c) "Sensors" includes, without limitation, cameras, lasers and radar.

Sec. 9. **NRS 484A.010 is hereby amended to read as follows:**

484A.010 As used in chapters 484A to 484E, inclusive, of NRS, unless the context otherwise requires, the words and terms defined in NRS 484A.015 to 484A.320, inclusive, ***and section 6 of this act*** have the meanings ascribed to them in those sections.

~~[Sec. 6.]~~ ***Sec. 10.*** NRS 484A.463 is hereby amended to read as follows:

484A.463 1. To the extent not inconsistent with federal law, the Department of Transportation may, in consultation with the Federal Highway Administration and the United States Environmental Protection Agency,

adopt regulations establishing a program to allow a vehicle that is certified by the Administrator of the United States Environmental Protection Agency as a low emission and energy-efficient vehicle to be operated in a lane that is designated for the use of high-occupancy vehicles pursuant to NRS 484A.460.

2. As used in this section, "low emission and energy-efficient vehicle" has the meaning ascribed to it in 23 U.S.C. § 166(f)(3). ***The term includes, without limitation, a qualified plug-in electric drive vehicle*** **.** ~~*[, as that term is defined in section 1 of this act.]*~~

~~[Sec. 7.]~~ ***Sec. 11.*** NRS 484B.523 is hereby amended to read as follows:

484B.523 1. ~~[When]~~ ***Except as otherwise provided in section*** ~~*[1]*~~ ***7 of this act, when*** parking meters are erected by any local authority pursuant to an adopted ordinance giving notice thereof, it is unlawful for any person to stop, stand or park a vehicle in any metered parking zone for a period of time longer than designated by such parking meters upon a deposit of a coin of United States currency of the designated denomination.

2. Every vehicle shall be parked wholly within the metered parking space for which the meter shows parking privilege has been granted.

3. It is unlawful for any unauthorized person to remove, deface, tamper with, open, willfully break, destroy or damage any parking meter, or willfully to manipulate any parking meter in such a manner that the indicator will fail to show the correct amount of unexpired time before a violation occurs.

~~[Sec. 8.]~~ ***Sec. 12.*** **1.** The Department of Motor Vehicles shall adopt the regulations necessary to implement the provisions of **sections 2 and 8 of** this act on or before ~~[January]~~ **March** 1, 2012.

2. Each local authority to which the provisions of section 7 of this act apply shall adopt the ordinances necessary to implement the provisions of sections 6, 7, 9, 10 and 11 of this act on or before January 1, 2012.

3. As used in this section, "local authority" has the meaning ascribed to it in NRS 484A.115.

~~[Sec. 9.]~~ ***Sec. 13.*** **1.** This **section and section 12 of this act become effective upon passage and approval.**

2. Sections 5, 6, 7, 9, 10 and 11 of this act ~~[becomes]~~ **become** effective on January 1, 2012.

3. Sections 2, 3, 4 and 8 of this act become effective on March 1, 2012.

4. The following provisions expire by limitation on January 1, 2018:

(a) Sections 5, 6 and 7 of this act;

(b) The amendatory provisions of sections 9, 10 and 11 of this act; and

(c) Subsections 2 and 3 of section 12 of this act.

Assemblywoman Dondero Loop moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 564.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 258 be taken from the Chief Clerk's desk and placed on the Second Reading File.

Remarks by Assemblyman Conklin.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 258.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 225.

SUMMARY—Enacts provisions governing the licensing and operation of ~~[Internet poker.]~~ **interactive gaming.** (BDR 41-657)

AN ACT relating to gaming; requiring the Nevada Gaming Commission to adopt regulations relating to the licensing and operation of ~~[Internet poker;]~~ **interactive gaming;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

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

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

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

1. ~~[Internet poker is widely played throughout the world;~~

2. ~~Laws governing Internet poker have been unclear;~~

3. ~~Technology now exists to limit the conduct of Internet poker to the State of Nevada and other jurisdictions where Internet poker is not prohibited;~~

4. ~~The use of such technology allows Internet poker to be offered by licensees in Nevada in compliance with all applicable laws;~~

5. ~~As a leader in gaming regulation, the State of Nevada has the capability to ensure that Internet poker is operated honestly and~~

~~*competitively and in compliance with all applicable laws, regulations and standards; and*~~

~~*6. Allowing licensed Internet poker sites to locate in and operate from the State of Nevada will benefit the economy of this State and assist in protecting consumers from criminal and corruptive influences that may be present in unlicensed and unregulated Internet poker sites.]*~~ ***The State of Nevada leads the nation in gaming regulation and enforcement, such that the State of Nevada is uniquely positioned to develop an effective and comprehensive regulatory structure related to interactive gaming.***

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

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

Sec. 3. **(Deleted by amendment.)**

Sec. 4. **(Deleted by amendment.)**

Sec. 5. **(Deleted by amendment.)**

Sec. 6. **(Deleted by amendment.)**

Sec. 7. **(Deleted by amendment.)**

Sec. 8. **(Deleted by amendment.)**

Sec. 9. **(Deleted by amendment.)**

Sec. 10. **(Deleted by amendment.)**

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

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

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

(b) To provide or maintain any information service;

(c) To operate a gaming salon; ~~[or]~~

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

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

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

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

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

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

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

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

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

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

463.750 1. Except as otherwise provided in subsections ~~*[subsection]*~~ 2 and 3, ~~*[section 7 of this act,]*~~ the Commission ~~[may,]~~ ***shall*** with the advice and assistance of the Board, adopt regulations governing the licensing and operation of interactive gaming.

2. The ~~*[Except as otherwise provided in section 7 of this act, the]*~~ Commission may not adopt regulations governing the licensing and operation of interactive gaming until the Commission first determines that:

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

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

~~[(c)]~~ ***(b)*** Such regulations are consistent with the public policy of the State to foster the stability and success of gaming.

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

(a) Establish the investigation fees for:

(1) A license to operate interactive gaming;

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

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

(b) Provide that:

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

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

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

(d) Provide that gross revenue received by an establishment from the operation of interactive gaming is subject to the same license fee provisions of NRS 463.370 as the games and gaming devices of the establishment.

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

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

(g) Provide that any license to operate interactive gaming does not become effective until:

(1) A federal law authorizing interactive gaming is enacted; or

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

4. Except as otherwise provided in ~~[subsection 5,]~~ ***subsections 5 and 6,*** the Commission shall not approve a license for an establishment to operate interactive gaming unless:

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

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

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

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

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

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

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

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

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

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

(3) Operates either:

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

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

5. The Commission may:

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

(1) The establishment satisfies the applicable requirements set forth in subsection 4; ~~[and]~~

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

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

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

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

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

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

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

~~[7.]~~ ***8.*** A person who violates subsection ~~[6]~~ ***7*** is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years or by a fine of not more than $50,000, or both. ~~*[The Commission may issue a license as an operator of Internet poker to a person or an affiliate of a person who has been licensed to operate Internet poker by a recognized regulatory body of another jurisdiction with licensing requirements that are similar to the licensing requirements of this State and who has successfully operated Internet poker pursuant to such a license for at least 2 years before the date on which the application for the license is submitted.*~~

~~*7. The Commission is authorized to enter into compacts with other jurisdictions where interactive gaming is not prohibited, setting forth the manner in which the State of Nevada and such other jurisdictions will regulate and share tax revenues from interactive gaming operations between*~~

~~*such jurisdictions and enforce criminal laws related to cheating, tax evasion or unlicensed interactive gaming, and authorizing the commingling of games and pots between such jurisdictions. Such compacts may be limited to Internet poker.]*~~

Sec. 13. **(Deleted by amendment.)**

Sec. 14. **(Deleted by amendment.)**

Sec. 15. This act becomes effective upon passage and approval.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 374 be taken from the Chief Clerk's desk and placed at the bottom of the General File.

Motion carried.

Assemblyman Conklin moved that upon return from the printer, Assembly Bill No. 469 be rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 6.

Bill read third time.

Remarks by Assemblyman Hambrick.

Roll call on Assembly Bill No. 6:

YEAS—42.

NAYS—None.

Assembly Bill No. 6 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:03 p.m.

ASSEMBLY IN SESSION

At 1:07 p.m.

Mr. Speaker presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 31.

Bill read third time.

Remarks by Assemblyman Ohrenschall.
Roll call on Assembly Bill No. 31:
YEAS—42.
NAYS—None.
Assembly Bill No. 31 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 37.
Bill read third time.
Remarks by Assemblywoman Kirkpatrick.
Roll call on Assembly Bill No. 37:
YEAS—42.
NAYS—None.
Assembly Bill No. 37 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 42.
Bill read third time.
Remarks by Assemblyman Ellison.
Roll call on Assembly Bill No. 42:
YEAS—42.
NAYS—None.
Assembly Bill No. 42 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 46.
Bill read third time.
Roll call on Assembly Bill No. 46:
YEAS—42.
NAYS—None.
Assembly Bill No. 46 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 56.
Bill read third time.
Remarks by Assemblyman Frierson.
Roll call on Assembly Bill No. 56:
YEAS—42.
NAYS—None.
Assembly Bill No. 56 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 57.
Bill read third time.

Remarks by Assemblyman Frierson.

Roll call on Assembly Bill No. 57:

YEAS—41.

NAYS—Kite.

Assembly Bill No. 57 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 61.

Bill read third time.

Remarks by Assemblyman Ellison.

Roll call on Assembly Bill No. 61:

YEAS—42.

NAYS—None.

Assembly Bill No. 61 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 72.

Bill read third time.

Remarks by Assemblyman Kite.

Roll call on Assembly Bill No. 72:

YEAS—41.

NAYS—Goedhart.

Assembly Bill No. 72 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 73.

Bill read third time.

Remarks by Assemblywoman Benitez-Thompson.

Assemblyman Conklin moved that the following remarks be entered in the Journal.

Motion carried.

ASSEMBLYWOMAN BENITEZ-THOMPSON:

Because this is a water bill and we are seeking to really clarify the language and intent, I am going to read the entire summary here to make sure it is clear for the record.

Assembly Bill 73 authorizes the State Engineer to enter upon lands where water is being diverted or used, or dams or other obstructions are located, to investigate or carry out his duties. Entry is limited to reasonable hours of the day.

The bill clarifies that certificated rights are subject to forfeiture, and if an extension of the time to work a forfeiture is granted, the State Engineer may declare a water right forfeited 30 days after the extension expires. A legislative declaration states that these amendments to the forfeiture provisions are consistent with past practice and, to promote stability, clarify rather than change the application of the current law.

With respect to granting credit to public water systems for the abandonment of domestic wells, the bill deletes the requirement that the State Engineer had denied a municipal application for groundwater and eliminates the requirement for a public hearing before granting such credits.

Roll call on Assembly Bill No. 73:
YEAS—42.
NAYS—None.
Assembly Bill No. 73 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 110.
Bill read third time.
Remarks by Assemblywoman Pierce.
Roll call on Assembly Bill No. 110:
YEAS—42.
NAYS—None.
Assembly Bill No. 110 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 130.
Bill read third time.
Remarks by Assemblywoman Smith.
Roll call on Assembly Bill No. 130:
YEAS—42.
NAYS—None.
Assembly Bill No. 130 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 145.
Bill read third time.
Remarks by Assemblyman Goicoechea.
Roll call on Assembly Bill No. 145:
YEAS—42.
NAYS—None.
Assembly Bill No. 145 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 146.
Bill read third time.
Roll call on Assembly Bill No. 146:
YEAS—42.
NAYS—None.
Assembly Bill No. 146 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 154.
Bill read third time.

Remarks by Assemblyman Frierson.

Roll call on Assembly Bill No. 154:

YEAS—42.

NAYS—None.

Assembly Bill No. 154 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 192.

Bill read third time.

Roll call on Assembly Bill No. 192:

YEAS—32.

NAYS—Ellison, Goedhart, Goicoechea, Hambrick, Hansen, Kirner, Kite, Livermore, McArthur, Sherwood—10.

Assembly Bill No. 192 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 196.

Bill read third time.

Roll call on Assembly Bill No. 196:

YEAS—42.

NAYS—None.

Assembly Bill No. 196 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 198.

Bill read third time.

Remarks by Assemblymen Grady, Carlton and Kirkpatrick.

Roll call on Assembly Bill No. 198:

YEAS—40.

NAYS—Carlton, Daly—2.

Assembly Bill No. 198 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 213.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 213:

YEAS—42.

NAYS—None.

Assembly Bill No. 213 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 226.

Bill read third time.

Remarks by Assemblyman Frierson.
Roll call on Assembly Bill No. 226:
YEAS—42.
NAYS—None.
Assembly Bill No. 226 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 228.
Bill read third time.
Remarks by Assemblyman Hickey.
Roll call on Assembly Bill No. 228:
YEAS—42.
NAYS—None.
Assembly Bill No. 228 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 237.
Bill read third time.
Roll call on Assembly Bill No. 237:
YEAS—42.
NAYS—None.
Assembly Bill No. 237 having received a constitutional majority, Mr. Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 238.
Bill read third time.
Roll call on Assembly Bill No. 238:
YEAS—42.
NAYS—None.
Assembly Bill No. 238 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 244.
Bill read third time.
Roll call on Assembly Bill No. 244:
YEAS—42.
NAYS—None.
Assembly Bill No. 244 having received a constitutional majority, Mr. Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 246.
Bill read third time.

Roll call on Assembly Bill No. 246:

YEAS—42.

NAYS—None.

Assembly Bill No. 246 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 249.

Bill read third time.

Roll call on Assembly Bill No. 249:

YEAS—42.

NAYS—None.

Assembly Bill No. 249 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 253.

Bill read third time.

Roll call on Assembly Bill No. 253:

YEAS—27.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—15.

Assembly Bill No. 253 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 254.

Bill read third time.

Remarks by Assemblywoman Carlton.

Assemblyman Conklin moved that the following remarks be entered in the Journal.

Motion carried.

ASSEMBLYWOMAN CARLTON:

Thank you, Mr. Speaker. I feel the need, with the controversy around this bill, to put a couple of things on the record.

Assembly Bill 254 provides that the administrator of the Division of Industrial Relations of the Department of Business and Industry or any authorized representative of the administrator may find a violation of the Nevada Occupational Safety and Health Act—OSHA—to have occurred based upon a determination that any employee has access to a hazard. The bill also includes within the scope of behavior for which a citation may be issued, the violation of any settlement agreement entered into that relates of the Nevada OSHA Act.

To make clear folks do understand what access is, access is a legal theory that exists in the federal and Nevada OSHA operations manual but has not been codified into federal or state statute or regulation. Access is one of four elements that a compliance officer must prove in order to propose an OSHA violation. The four elements are:

1. A hazardous condition exists.
2. There is actual or constructive employer knowledge of the hazard.
3. There is employee access to the hazard.
4. There is a regulation that governs that hazardous condition.

Placing access into Chapter 618 will give current OSHA policy the strength of law and make it a more compelling requirement for the Nevada OSHA review board and courts to consider

when hearing contested cases. Employee access is established if the safety officer witnesses, observes, or monitors the proximity or access of an employee to the hazard or potentially hazardous condition.

These statements should make everyone involved in this issue comfortable with where OSHA will stand if an employee has access to a hazard.

Roll call on Assembly Bill No. 254:

YEAS—31.

NAYS—Ellison, Goicoechea, Hambrick, Hammond, Hansen, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood—11.

Assembly Bill No. 254 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 260.

Bill read third time.

Roll call on Assembly Bill No. 260:

YEAS—42.

NAYS—None.

Assembly Bill No. 260 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 282.

Bill read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 282 be taken from General File and rereferred to the Committee on Ways and Means.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:51 p.m.

ASSEMBLY IN SESSION

At 1:56 p.m.

Mr. Speaker presiding.

Quorum present.

Assemblyman Conklin moved that the motion to rerefer Assembly Bill No. 282 to the Committee on Ways and Means be reconsidered.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 282 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assembly Bill No. 289.
Bill read third time.
Remarks by Assemblywoman Mastroluca.
Roll call on Assembly Bill No. 289:
YEAS—30.
NAYS—Atkinson, Brooks, Goedhart, Hambrick, Hammond, Hansen, Kirkpatrick, Kirner, McArthur, Munford, Stewart, Woodbury—12.
Assembly Bill No. 289 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 290.
Bill read third time.
Roll call on Assembly Bill No. 290:
YEAS—39.
NAYS—Ellison, Goedhart, McArthur—3.
Assembly Bill No. 290 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 291.
Bill read third time.
Roll call on Assembly Bill No. 291:
YEAS—27.
NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—15.
Assembly Bill No. 291 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 294.
Bill read third time.
Roll call on Assembly Bill No. 294:
YEAS—42.
NAYS—None.
Assembly Bill No. 294 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 299.
Bill read third time.
Remarks by Assemblyman Atkinson.
Roll call on Assembly Bill No. 299:
YEAS—26.
NAYS—Conklin, Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Woodbury—16.
Assembly Bill No. 299 having failed to receive a two-thirds majority, Mr. Speaker declared it lost.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved to reconsider the vote whereby Assembly Bill No. 299 was lost.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 299 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 317.

Bill read third time.

Roll call on Assembly Bill No. 317:

YEAS—40.

NAYS—Goedhart, Kite—2.

Assembly Bill No. 317 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 321.

Bill read third time.

Remarks by Assemblyman Kite.

Roll call on Assembly Bill No. 321:

YEAS—39.

NAYS—Carlton, Carrillo, Pierce—3.

Assembly Bill No. 321 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 328.

Bill read third time.

Roll call on Assembly Bill No. 328:

YEAS—42.

NAYS—None.

Assembly Bill No. 328 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:15 p.m.

ASSEMBLY IN SESSION

At 2:17 p.m.

Mr. Speaker presiding.

Quorum present.

Assemblyman Conklin moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 13, 29, 45, 59, 68, 107, 117, 135, 141, 149, 179, 258, 273, 276, 283, 284, 308, 463, and 564.

Motion carried.

Assemblyman Conklin moved that all rules be suspended and that Assembly Bills Nos. 13, 29, 45, 59, 68, 107, 117, 135, 141, 149, 179, 258, 273, 276, 283, 284, 308, 463, and 564 be declared emergency measures under the Constitution and placed on third reading and final passage.

Motion carried.

Assemblyman Conklin moved that the Assembly recess until 4:45 p.m.

Motion carried.

Assembly in recess at 2:21 p.m.

ASSEMBLY IN SESSION

At 5:01 p.m.
Mr. Speaker presiding.
Quorum present.

Mr. Speaker appointed Assemblymen Anderson and Hardy as a committee to invite the Senate to meet in Joint Session with the Assembly to hear an address by United States Representative Joe Heck.

The members of the Senate appeared before the Bar of the Assembly.

Mr. Speaker invited the members of the Senate to chairs in the Assembly.

IN JOINT SESSION

At 5:09 p.m.
President of the Senate presiding.

The Secretary of the Senate called the Senate roll.
All present.

The Chief Clerk of the Assembly called the Assembly roll.
All present.

The President of the Senate appointed a Committee on Escort consisting of Senator Hardy and Assemblywoman Diaz to wait upon Representative Heck and escort him to the Assembly Chamber.

The Committee on Escort in company with The Honorable Joe Heck, United States Representative from Nevada, appeared before the Bar of the Assembly.

The Committee on Escort escorted the Representative to the rostrum.

Mr. Speaker welcomed Representative Heck and invited him to deliver his message.

Joe Heck, United States Representative, delivered his message as follows:

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-SIXTH SESSION, 2011

Governor Sandoval, Speaker Oceguera, Majority Leader Horsford, Minority Leaders Goicoechea and McGinness, distinguished constitutional officers, honorable members of the Judiciary, my fellow Nevadans. It is an honor and a privilege to stand here before you today as a former member of this legislative body and as your federal representative for the Third Congressional District.

As a doctor, I learned that you can't cure an illness until you understand the cause. The recession gripping Nevada is largely the result of a badly broken federal government, because far too often political expediency has trumped sound policy as decisions were made. That lack of leadership seeped into our daily lives and rotted America's economic foundations to its core.

Rebuilding our economy won't be easy, and it won't happen overnight. This is an especially difficult reality for Nevada because we have been hit harder than any other state. We must work together to get people back to work; we must work together to make sure our children have better opportunities than we do; and we must work together to maintain a strong national defense, because without our freedom, very few of the policy issues that our nation faces today will even matter.

I know firsthand that today's elections are far from unanimous. I represent the most populous district in the nation, more than 1 million people, and I won by two-thirds of 1 percent—1,922 votes. But I don't only represent the people that voted for me, I represent those who didn't and the ones who couldn't. Two months ago, just a few weeks into my term, two votes came up on the House Floor of whether or not to terminate two housing programs. These programs were very unpopular among many conservatives, and I received information telling me just how terrible these programs were and that they hadn't lived up to their potential. And the truth is they haven't.

I knew that many of the people who voted for me in November probably wanted me to vote to terminate these programs. I believe in cutting government waste, and I have been a vocal advocate of eliminating programs that have outlived their purpose or have lost sight of their original mission. But I also know that government has a limited role in helping people help themselves.

Now I have to admit, I was a bit surprised that I was the only Republican voting to protect these programs on one vote and only one of two on the other, and it has generated a bit of unfriendly criticism from some conservatives, and I understand that. Some asked if I regretted my vote, others if my vote was a mistake, but most wanted to know why I voted against my party. Seventeen thousand Nevadans are the reason that I voted against my party.

These two housing programs have helped more than 17,000 Nevadans stay in their homes. They help the very people the government should be helping; those who are trying to do the right thing: the folks who are trying hard to make their mortgages but because of the dire economy in Nevada might be teetering on the edge of foreclosure; our friends, our neighbors, and even family members who have lost their jobs through no fault of their own; Democrats, Independents, and yes, even Republicans who have come to my office asking for assistance.

I will continue to fight to cut government spending in Washington, but I will never lose sight of the fact that I was sent to Washington to fight for Nevada first, even if it means voting against the majority of my party and incurring the ire of some of those who voted for me. I don't only represent the people who voted for me; I represent those who didn't and those who couldn't.

I often recall what I learned early in my career as a doctor—that you can't cure an illness until you understand the cause. We will not cure the disease of foreclosure and unemployment until we understand the cause. Both parties have been guilty of overspending, and politicians from both sides have failed to prioritize, demand accountability, and make difficult decisions. They have failed to lead. To pretend otherwise simply perpetuates the status quo and guarantees an

America defined by debt instead of by greatness. It guarantees an America tied to the fortunes of other nations and binds our children and grandchildren to a debt that we can't pay. And it creates national security challenges that risk the very safety of our nation and our people. Thomas Jefferson warned against great undertakings on slender majorities. Rebuilding our economy is too great an undertaking to ignore this advice.

Both sides have sinned. We don't have to agree on everything, but we must view each idea, each suggestion, and each piece of legislation with an eye toward the future of our nation instead of the impact on the next election. The hundreds of constituents that I have met with since being sworn in told me that they want to get back on their path to the American dream, and that path begins with a good job—knowing that if they have a job and work hard, they can live their American dream.

Ninety-five percent of Nevada businesses are small businesses, and they employ 43 percent of Nevada's workers. Just under half of employed Nevadans work for small businesses. I used to own a small business myself, and I know many of you are small business owners as well. For those of you who are—or were—you know how gratifying it is to see an idea that you had and saw through was good enough not just to sustain, but to thrive, and you know how gratifying it was to offer someone a job and give him or her the opportunity to grow, to shine and earn, and be fulfilled.

When I visit with small business owners and ask them the number one reason they aren't hiring and ask what is preventing a recovery, nearly all say there is too much uncertainty at the moment—uncertainty in the economy, uncertainty in their government, and uncertainty about how they can compete in an evolving global economy. That's a showstopper for small businesses.

The number one rule of running a successful business is to assess your risk, plan for the worst, and hope for the best. Uncertainty increases risk and when risk increases, more small business owners say, "Maybe I'll wait to hire that new person until things clear up." What we need to do is cure the disease of uncertainty. When we do that, entrepreneurs will take risks, small business owners will hire that extra employee, add more space, and grow their businesses. The way to give them that certainty begins with a single word—*listen*.

Listen to the people who operate 95 percent of Nevada's businesses. They know what they need to get their businesses back on track and back to hiring. I put together an economic advisory council that had getting the answer to what's causing uncertainty as its singular goal. The council consists of the elements that constitute a small business: entrepreneurs, lenders, and labor, and includes people from all across the political spectrum. Despite a wide variety of personal and political views, the problem was easy to diagnose: a government that spends your money, gets in your way, regulates your business, raises your taxes, requires almost no accountability, and runs up a debt that its citizens cannot afford to pay. This group worries that if the government's spending continues at its current level, taxes will have to go up to sustain that spending. They worry about how new government regulations will affect their competitiveness; their ability to grow, thrive, and provide good jobs.

We must work together to address these causes of uncertainty our small business owners have said are preventing their recovery. Businesses openly support less government spending, which would alleviate their concern about immediate new taxes and future taxes to pay for debt-financed spending. Government has spent without accountability for years, under both Republicans and Democrats. If elected leaders choose to maintain or increase current spending levels, it is not a question of if taxes must go up, it's a question of when. Taxes will either be increased immediately to pay for the spending now, or will be increased in the future to pay for the interest on the money the government borrows, or both.

We must work together to return government spending to responsible levels. That means making difficult decisions to bring government in line with the private sector; it means demanding accountability and performance; and it means forcing government to do more with less. That's what our families have done. It is what our businesses have done, and it is what our government must do.

I applaud Governor Sandoval for having the courage to put forward a balanced budget that doesn't raise taxes, and I applaud those of you who have agreed to stand with him. Senator Horsford and Speaker Oceguera, I thank you for your willingness to work with Governor

Sandoval and Lt. Governor Krolicki to further enhance Nevada's economic development efforts. I want each of you to know that I will do all I can to help you make Nevada the most business friendly state in America.

Nevadans have talked about economic diversification for decades, and I would guess that Nevada's first governor, Henry Blasdel, and the first legislature probably talked about it as well. I am sure our state leaders thought they solved the issue when we moved from a one-industry economy—mining—to a two-industry economy with the addition of gaming and tourism. But as we have seen twice in the last decade, as important as mining and tourism are to our state's fiscal health, we must expand our horizons and look to the future. Many have talked about our state's potential to be a leader in renewable energy, and I agree. That is why I supported the continuation of the federal loan guarantees for renewable energy projects, so Nevada can continue to build and grow in this area. Projects from Eldorado to Amargosa Valley to Tonopah and beyond would bring desperately needed jobs to the surrounding communities.

But we must also look past the energy production side of the equation. We must have serious discussions about bringing the research and development, as well as the manufacturing components of this industry, to Nevada. That is where the sustainable, good-paying jobs will materialize. I will continue to support research and development tax credits and work to streamline the bureaucracy to access Nevada's lands that remain under federal control and to expedite the federal permitting process while protecting the environment and maintaining safety.

The recession has touched every corner of our nation—every region, every demographic, every industry, and every person; we have all felt the pain. But there are some reasons to be encouraged as we look at some success stories in other places. In fact, a number of states have begun to recover more quickly because they listened to their small business owners. They listened to the people who create jobs and they reduced government spending without increasing taxes. They did this to inspire confidence and establish predictability.

Between 2008 and 2009, Virginia lost nearly 150,000 jobs. Yet since early 2010, they have created nearly 100,000 new jobs. They're on the way back. Virginia's Governor Bob McDonnell was providing testimony before Congress January 26. During his testimony I asked him, "How did you do it? How is your state recovering so quickly from this recession?" Governor McDonnell explained that he worked with state legislators to close their entire $2 billion budget gap by reducing government spending without raising taxes. Yes, there were painful reductions to programs people cherished, but I would trade the criticism resulting from cutting or eliminating a handful of programs if it meant 100,000 more jobs in Nevada right now. People want a paycheck, not a government check.

In addition to the harm government overspending is having on our economy, government regulations are just as culpable. Government regulations are being created at a historic rate, and often without regard to the regulation's impact on the economy. That is why I am a cosponsor of the REINS Act, which requires any regulation with a fiscal impact of more than $100 million to come back before Congress for review. Small businesses are often left in the dark and don't know when a regulation is coming out or how they will be impacted by that new regulation until the last minute.

The new health care law is 2,700 pages; the U.S. tax code, 74,000 pages; the regulations recently released by the Department of Health and Human Services on the health care for just one section of the health care law, 500 pages. Now 500 pages are significant, but the biggest problem is the unknown. When businesses see that those 500 pages cover only 6 pages of the law, you can begin to understand why they're concerned. If that ratio holds true, health care regulations just from the health care law alone will total 225,000 pages, making the tax code look like a pamphlet.

Despite these challenges, we have an opportunity to remake Nevada for the future. That future is through education. You can't cure an illness until you understand the cause. We will not fulfill our economic potential as a state or a nation unless we fix our educational system. We will not successfully recruit high tech industries and research and development opportunities to Nevada without providing a world-class education for our children. Education will ensure our children have the tools they need to compete in the global economy.

As a member of the House Committee on Education and the Workforce, we have started debate on the reauthorization of the Elementary and Secondary Education Act. America's

educational system isn't doing our children justice. It has become stagnant and full of red tape. As many of you know, my undergraduate degree was in education. I first went to school thinking I was going to be a teacher. The people I studied with were deeply passionate about teaching our children. It isn't our teachers who are holding our students back, it is the system. The federal government's one-size-fits-all approach is a disservice to our children.

We must explore ways to give more local control over education. That is why I am committed to returning control to parents, teachers, and the states. Finding ways to provide increased local control will benefit our children, and Nevada's long-term economy. We must embrace and support career and technical education as well as science, technology, engineering, and math programs to prepare our students for the global marketplace.

I recently attended the first robotics competition at the Thomas and Mack Arena. High schools from around the world, including eight from Congressional District 3, competed. Two local schools, Cimarron Memorial and Boulder City, advance to the World Finals to be held in St. Louis, Missouri, next month. I was incredibly impressed by the ingenuity of these high school teams. We must ensure that all children have the same opportunities to harness their greatest potential. Those opportunities include the ability for parents to choose where their child is educated, whether it is public, charter, private, or home schools.

I've talked a lot tonight about sacrifice—about working together to do what is right. We could learn a lot from the men and women in our armed forces who lay it all on the line every day to protect our freedom. Every day they put aside their personalities, their ideologies, and their individual goals to advance the cause of our nation.

Last week I visited our troops in Iraq and Afghanistan. There I met two Las Vegans—two Marines—Lance Corporal Jacob Swanson and Hospital Corpsman Jose Padilla, at a dusty combat outpost outside the village of Marjeh in Afghanistan. I'm proud of them and all our serving men and women. I admire them and I know how much we all appreciate them. I'm proud to represent those who wear the uniform, past and present, their families and survivors. We can't lose sight of the fact that Nevada plays a key role in America's national defense. From Nellis to Fallon, Creech to Hawthorne, Nevada is critical to maintaining America's freedom.

And because in many ways we are an international symbol of capitalism's risk, reward, and success, we are a potential target. We must keep America safe, and more specifically we must keep Nevada safe. Never before has it been more clear that our freedom is what separates us from so many countries around the world, many of which would like to rob us of that freedom. As a member of the House Armed Services Committee and a member of the House Intelligence Committee, I am working to make sure that our local and national security is maintained and that our military men and women have the tools they need to get the job done.

When our parents talked about the American dream, part of that goal revolved around knowing that everyone—everyone—has the opportunity to improve their own life and create their own success. That is important to all of us, but what makes so many of us work so hard is the belief that we can give our children a better starting point than we had.

We have the chance, right now, to be an example for our children. We can show them that sometimes our problems are too big to hold grudges; they are too large to let personalities or ideologies get in the way. Sometimes they are so large, they can bring the greatest nation that the world has ever known to its knees. But our problems are never too big to tackle with hard work, discipline, and a willingness to tap the best of the American spirit. When we forego what is easy for what is right and when we accept responsibility instead of pointing fingers, we will have taken a significant step toward reviving our economy and putting Nevadans back to work. These are critical ingredients to ensuring our children have a better future.

Ladies and gentlemen, Governor Sandoval, thank you for allowing me to address you today. I sat in this Chamber as a senator a few years ago and recognize the extraordinary dedication that all of you have to Nevada and the extraordinary challenges that you all have lying ahead. From balancing the budget to ensuring a quality education for our children, from managing essential services to passing a fair redistricting plan that puts the people of Nevada above partisan politics, you have a lot of work ahead.

I look forward to working with each of you, regardless of party or ideology, to get our spending under control and our government back on track. I am honored to be your guest today and wish you the best of luck, the spirit of cooperation, and the dedication and discipline to do

what is right. The people of Nevada need your best, and I have every confidence that when the final bell sounds, you will have given them your best.

It is in that spirit of cooperation that we will return our state and our nation to prosperity, restore America's exceptionalism, and in words used by both a Democrat and Republican president, have our "rendezvous with destiny."

Senator Lee moved that the Senate and Assembly in Joint Session extend a vote of thanks to Representative Heck for his timely, able, and constructive message.

Seconded by Assemblyman Ellison.

Motion carried unanimously.

The Committee on Escort escorted Representative Heck to the Bar of the Assembly.

Senator Denis moved that the Joint Session be dissolved.

Seconded by Assemblyman Hogan.

Motion carried.

Joint Session dissolved at 5:36 p.m.

ASSEMBLY IN SESSION

At 6:02 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 74, 542, 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. 351, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Mr. Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 1, 63, 76, 80, 98, 182, 242, 248, 360, 376, 404, 420, 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 Government Affairs, to which was referred Assembly Bill No. 406, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation and rerefer to Ways and Means.

MARILYN K. KIRKPATRICK, *Chair*

Mr. Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 536, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

APRIL MASTROLUCA, *Chair*

Mr. Speaker:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 132, 337; Assembly Joint Resolution No. 1, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TICK SEGERBLOM, *Chair*

Mr. Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 204, 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. 277, 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*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 25, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Joint Resolution No. 9; Senate Bill No. 368; Senate Joint Resolution No. 12.

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

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 21, 99, 201, 213, 266, 267, 291, 292, 314, 315, 328, 331, 351, 356, 367, 377, 384, 385, 405, 414, 420, 487.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bills Nos. 1, 63, 74, 76, 80, 98, 132, 182, 204, 242, 248, 277, 337, 351, 360, 376, 404, 406, 420, 536, 542, Assembly Joint Resolution No 1, just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Conklin moved that, upon return from the printer, Assembly Bills Nos. 191, 202, 219, 245, 247, 258, 380, 402, 416, 432, 505, and 511 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Conklin moved that Assembly Bills Nos. 117 and 282 be taken from the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 204 be taken from the Second Reading File and placed on the Chief Clerk’s desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 1.

Bill read second time.

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

Amendment No. 259.

AN ACT relating to state financial administration; requiring certain governmental entities to report financial information periodically to certain legislative bodies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires certain governmental entities of this State, beginning with the fourth quarter of Fiscal Year 2010-2011 and concluding with the third quarter of Fiscal Year 2012-2013, to report to the Interim Finance Committee within 60 days after the end of the immediately preceding fiscal quarter certain financial information, including the taxes and fees that: (1) were legally due to be paid to the entity; (2) the entity was able to collect; and (3) the entity did not collect or was otherwise unable to collect, to the extent that such information is available to the entity. **Section 2** of this bill requires the Commission on Economic Development **and the Office of Energy** to report to the Interim Finance Committee on the same time schedule regarding each tax or fee that the Commission **or Office, as applicable,** abated, exempted or otherwise waived and the duration of the applicable abatement, exemption or waiver. **Section 3** of this bill requires each occupational licensing board that regulates an occupation or profession pursuant to title 54 of NRS to report to the Interim Finance Committee and the Legislative Commission ~~[every 6 months]~~ **on or before December 1, 2011,** as to certain money, fees**,** ~~[and]~~ expenditures ~~[. The first report required of the occupational licensing boards must be filed within 60 days after June 30, 2011, and the last report required of the occupational licensing boards must be filed within 60 days after December 31, 2012.]~~ **and assets.** All reports required to be filed pursuant to this bill must be submitted on a form provided by the Director of the Legislative Counsel Bureau.

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

Section 1. 1. Beginning on July 1, 2011, and extending through May 30, 2013, the following governmental entities shall, within 60 days after the end of the immediately preceding fiscal quarter, file with the Interim Finance Committee a report that complies with the requirements of subsection 2:

(a) The Department of Taxation.
(b) The State Gaming Control Board.
(c) The Department of Motor Vehicles.
(d) The Department of Employment, Training and Rehabilitation.
(e) The Department of Business and Industry.
(f) The Office of the State Controller.
(g) The Office of the Secretary of State.

2. Each report required to be filed pursuant to subsection 1 must be submitted on a form provided by the Director of the Legislative Counsel Bureau and include the following components:

(a) A statement of all taxes and fees that were legally due to be paid to the particular governmental entity in the immediately preceding fiscal quarter;

(b) A statement of the total of all taxes and fees that the particular governmental entity actually collected in the immediately preceding fiscal quarter;

(c) A statement of all taxes and fees that the particular governmental entity, in the immediately preceding fiscal quarter, failed to collect or otherwise did not collect as the result of an abatement, exemption or another reason, to the extent that such information is available to the governmental entity;

(d) A statement of:

(1) The total amount of all taxes and fees that remain legally due to be paid to the particular governmental entity for any past fiscal years up to and including the immediately preceding fiscal quarter of the current fiscal year; and

(2) Except if the entity is the Office of the State Controller, the portion of the total amount described in subparagraph (1) that the entity assigned to the State Controller for collection; and

(e) Such other information relating to the provisions of this section as may be requested by the Director of the Legislative Counsel Bureau.

3. In addition to the components set forth in subsection 2, the Department of Taxation shall include in its report filed pursuant to subsection 1 a list of the special districts to which an exemption from the requirements of the Local Government Budget and Finance Act for the filing of certain budget documents and audit reports was granted pursuant to NRS 354.475.

Sec. 2. 1. Beginning on July 1, 2011, and extending through May 30, 2013, the Commission on Economic Development **and the Office of Energy** shall, within 60 days after the end of the immediately preceding fiscal quarter, file with the Interim Finance Committee a report that complies with the requirements of subsection 2.

2. Each report required to be filed pursuant to subsection 1 must be submitted on a form provided by the Director of the Legislative Counsel Bureau and include a description of every abatement, exemption or other type of waiver that the Commission on Economic Development **and the Office of Energy** granted with respect to a tax or fee during the immediately preceding fiscal quarter. The description must include, without limitation:

(a) An estimate of the total amount of money the payment of which was abated, exempted or otherwise waived;

(b) The duration of the abatement, exemption or other type of waiver; and

(c) Such other information relating to the provisions of this section as may be requested by the Director of the Legislative Counsel Bureau.

Sec. 3. 1. ~~[Beginning on July]~~ **On or before December** 1, 2011, ~~[and extending through March 1, 2013,]~~ each occupational licensing board shall **[**~~, within 60 days after the end of the immediately preceding two fiscal quarters ending on June 30 and December 31, respectively,~~**]** file with the Interim Finance Committee and the Legislative Commission a report setting forth:

(a) The total amount of money that the occupational licensing board has on hand, including, without limitation **[**~~, cash, certificates~~**]** **:**

(1) Cash;

(2) Certificates of deposit **[**~~, bonds~~**]** **;**

(3) Bonds; and **[**~~any~~**]**

(4) Any other sources of income **[**~~,~~**]** **, including, without limitation, lease payments;**

(b) A statement of the fees, if any, that the occupational licensing board increased during the immediately preceding 6 months, including the amount of any such increase;

(c) A statement of the fees, if any, that the occupational licensing board collected during the immediately preceding 6 months;

(d) A summary of the money that the occupational licensing board spent during the immediately preceding 6 months, including, without limitation, money spent on programs, office expenses and legal expenses **,** and money spent to hire and pay the compensation of outside consultants;

(e) A statement of all fees, if any, that the occupational licensing board, in the immediately preceding 6 months, failed to collect or otherwise did not collect as the result of a forbearance, an exemption or another reason, to the extent that such information is available to the occupational licensing board; ~~[and]~~

(f) **A listing of any capital assets held by the occupational licensing board, including, without limitation, buildings and land;**

(g) A current schedule of all fees that the occupational licensing board charges, including a notation setting forth the date on which, and the amount by which, each such fee was most recently changed; and

(h) Such other information relating to the provisions of this section as may be requested by the Director of the Legislative Counsel Bureau.

2. Each report required to be filed pursuant to subsection 1 must be submitted on a form provided by the Director of the Legislative Counsel Bureau.

3. As used in this section, "occupational licensing board" means an agency, board or commission that regulates an occupation or profession pursuant to title 54 of NRS.

Sec. 4. This act becomes effective upon passage and approval.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 63.

Bill read second time.

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

Amendment No. 173.

AN ACT relating to the Office of the Attorney General; revising provisions governing the duties of, and services provided by, the Attorney General; revising the conditions under which certain cooperative agreements between various public agencies may be reviewed by the Attorney General; authorizing the Attorney General to designate a city attorney or district attorney to prosecute certain false claims; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes the Attorney General to appoint a special deputy to provide legal advice to a state agency, board or commission that has the authority to regulate an occupation or profession if the Attorney General determines that it would be impracticable or uneconomical or constitute a conflict of interest for the Attorney General or a deputy attorney general to provide that service.

Existing law authorizes a district attorney to request the personal presence of the Attorney General or the presence of a deputy attorney general or special investigator to provide assistance in the presentation of a criminal case, but limits the reimbursement for providing such assistance to traveling expenses. (NRS 228.130) **Section 2** of this bill, with respect to the provision of such assistance **, [**~~: (1) allows the Attorney General to charge a county for all the actual and necessary expenses incurred in providing such assistance; and (2)~~**]** allows the Attorney General to appoint a special prosecutor under certain circumstances **[**~~,~~**]** **and provides different mechanisms for approving the compensation of the special prosecutor depending upon the severity of the crimes.** Under existing law, the Attorney General is prohibited from receiving any fee for the performance of any duty required of him or her by law, but money may be paid to his or her office pursuant to law or an agreement with an agency of the State for the performance of any duty or service by his or her office. (NRS 228.150) **Section 3** of this bill eliminates **[**~~that~~**]** **the** prohibition **[**~~and specifically authorizes~~**]** **against** the Attorney General **[**~~to charge a district attorney or city attorney for the cost of providing a legal opinion.~~**]** **receiving a fee for the performance of a duty required of the Attorney General by law.**

Existing law authorizes certain public agencies to enter into cooperative agreements with other public agencies for purposes such as the performance of certain governmental functions, the sale, exchange or lease of real property and the consolidation of governmental services. (Chapter 277 of NRS) Under existing law, if a public agency intends to enter into such a cooperative agreement for which it is reasonably foreseeable that the agency will have to expend more than $25,000, the agreement must first be

submitted to the Attorney General for a determination of whether the agreement comports with state law. (NRS 277.140) **Section 4** of this bill provides that a public agency is not required to submit such an agreement to the Attorney General, but may do so, and also provides that the Attorney General may charge the public agency for the cost of determining whether the agreement comports with state law. **Section 4 also provides that the Attorney General is not allowed to charge for that cost unless the determination is made within 30 days after the date on which the Attorney General receives the agreement.**

Existing law requires the Attorney General to investigate alleged false claims made against an officer, employee or agent of the State, a political subdivision of the State or certain contractors, grantees or other recipients of money from the State. The Attorney General is also authorized to bring a civil action against a person liable for such a false claim, and 33 percent of any recovery under such an action must be paid into the State General Fund for use by the Attorney General in investigating and prosecuting false claims. (NRS 357.070, 357.200) **Section 7** of this bill authorizes a district attorney or city attorney to accept a designation from the Attorney General to investigate a false claim and bring a civil action against a person liable for the false claim. **Section 17** of this bill provides that, if a district attorney or city attorney acts as a designee of the Attorney General in a false claim action, the portion of any recovery that would otherwise be paid into the State General Fund for use by the Attorney General must instead be paid into the general fund of the political subdivision which employs the designee.

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

Section 1. Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Attorney General:

(a) Has been designated as the legal adviser for a regulatory body; and

(b) Determines at any time that it is impracticable or uneconomical or could constitute a conflict of interest for the Attorney General or a deputy attorney general to provide legal advice to the regulatory body,

➥ the Attorney General may appoint a special deputy to provide legal advice to the regulatory body.

2. Compensation for a special deputy appointed pursuant to subsection 1 must be:

(a) Fixed by the Attorney General, subject to the approval of the State Board of Examiners; and

(b) Paid by the regulatory body for which the special deputy is appointed to provide legal advice.

3. The provisions of this section do not alter, limit or otherwise affect the authority of the Attorney General to:

(a) Appoint a special deputy or special deputy attorney general for the purposes specified in NRS 228.090; or

(b) Employ special counsel for the purposes specified in NRS 41.03435.

4. As used in this section, "regulatory body" has the meaning ascribed to it in NRS 622.060.

Sec. 2. NRS 228.130 is hereby amended to read as follows:

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

2. In all criminal cases where ~~[help]~~ ***assistance*** is requested from the Attorney General's Office, as ~~[mentioned]~~ ***described*** in subsection 1, in the presentation of criminal cases before a committing magistrate, grand jury, or district court , the ~~:~~

~~*(a) The Attorney General may charge the district attorney the cost of providing such assistance. Any such costs must be charged in a manner that is substantially similar to the manner for charging state agencies for services, as set forth in NRS 228.113.*~~

~~*(b) The]*~~ board of county commissioners of the county making such request shall, upon the presentation to the board of a duly verified claim setting forth the expenses incurred, pay from the general funds of the county the actual and necessary traveling expenses of the Attorney General ~~[,]~~ or his or her deputy ***attorney general*** or his or her special investigator ~~[,]~~ from Carson City, Nevada, to the place where such proceedings are held and return therefrom, and also pay the amount of money actually expended by such person for board and lodging from the date such person leaves until the date he or she returns to Carson City.

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

4. If the Attorney General:

(a) Is requested, pursuant to subsection 1, to provide assistance to a district attorney in the presentation of a criminal case before a committing magistrate, grand jury or district court; and

(b) Determines at any time before trial that it is impracticable or uneconomical or could constitute a conflict of interest for the Attorney General or a deputy attorney general to provide such assistance,

➥ the Attorney General may , with the concurrence of the board of county commissioners and the district attorney, appoint a special prosecutor to present the criminal case.

5. [Compensation] Except as otherwise provided in subsection 6, compensation for a special prosecutor appointed pursuant to subsection 4 must be [:

(a) Fixed] fixed by the Attorney General, subject to the approval of the State Board of Examiners . [; and

(b) Paid by]

6. For the prosecution of a category A or B felony, compensation and other terms and conditions must be agreed upon by the Attorney General and the district attorney of the county for which the special prosecutor is appointed to provide assistance.

Sec. 3. NRS 228.150 is hereby amended to read as follows:

228.150 1. When requested, the Attorney General shall give his or her opinion, in writing, upon any question of law, to the Governor, the Secretary of State, the State Controller, the State Treasurer, the Director of the Department of Corrections, to the head of any state department, agency, board or commission, to any district attorney and to any city attorney of any incorporated city within the State of Nevada, upon any question of law relating to their respective offices, departments, agencies, boards or commissions.

2. Nothing contained in subsection 1 requires the Attorney General to give his or her written opinion to any city attorney concerning questions relating to the interpretation or construction of city ordinances.

3. ~~[The Attorney General is not entitled to receive any fee for the performance of any duty required of him or her by law, but money]~~ ***Money*** may be paid to ~~[his or her office or]~~ ***the Office of the Attorney General*** pursuant to law **,** or ***pursuant to*** an agreement with an agency of the State **,** for the performance of any duty or service ***provided*** by his or her office.

~~*[4. The Attorney General may charge a district attorney or city attorney the cost of providing a written opinion pursuant to this section. Any such costs must be charged in a manner that is substantially similar to the manner for charging state agencies for services, as set forth in NRS 228.113.]*~~

Sec. 4. NRS 277.140 is hereby amended to read as follows:

277.140 ~~[As conditions precedent to the entry into force of any]~~

1. Any agreement made pursuant to NRS 277.080 to 277.170, inclusive, for which it is reasonably foreseeable that a public agency will be required to expend more than $25,000:

~~[1. The agreement must]~~

(a) May be submitted to the Attorney General, who shall determine whether it is in proper form and compatible with the laws of this State. The Attorney General shall set forth in detail, in writing, addressed to the governing bodies of the public agencies concerned, any specific respects in which he or she finds that the proposed agreement fails to comply with the requirements of law. Any failure by the Attorney General to disapprove an agreement submitted under the provisions of this section within 30 days after its submission shall be deemed to constitute his or her approval.

~~[2. The agreement must]~~

(b) Must be recorded with the county recorder of each county in which a participating political subdivision of this State is located and filed with the Secretary of State.

2. The Attorney General may charge the cost of performing any determination made pursuant to subsection 1 to the public agency that submits the agreement to the Attorney General for review ~~[.]~~ ***, but only if the determination is made within 30 days after the date on which the Attorney General receives the agreement. Any such costs must be charged in a manner that is substantially similar to the manner for charging state agencies for services, as set forth in NRS 228.113.***

Sec. 5. NRS 277.150 is hereby amended to read as follows:

277.150 In the event that an agreement made pursuant to NRS 277.080 to 277.170, inclusive, deals in whole or in part with the provision of services of facilities over which an officer or agency of this State has constitutional or statutory powers of control, the agreement ~~[shall,]~~ ***must,*** as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control for approval or disapproval as to all matters within the jurisdiction of the state officer or agency in the same manner and subject to the same requirements as govern the action of the Attorney General under NRS 277.140. This requirement of submission and approval is in addition to and not in substitution for the ~~[requirement of]~~ ***authority for*** submission and approval by the Attorney General.

Sec. 6. NRS 357.050 is hereby amended to read as follows:

357.050 In a civil action pursuant to this chapter, the court may give judgment for not less than twice or more than three times the amount of damages sustained, and no civil penalty, if it finds that:

1. The person against whom the judgment is entered:

(a) Furnished all information known to the person concerning the act, within 30 days after becoming aware of the information, to the Attorney General ~~[,]~~ ***or a designee of the Attorney General pursuant to NRS 357.070;*** and

(b) Fully cooperated with any investigation of the act by the State or political subdivision; and

2. At the time the information was furnished, no criminal prosecution or civil or administrative proceeding had commenced with respect to the act and the person had no knowledge of the existence of any investigation with respect to the act.

Sec. 7. NRS 357.070 is hereby amended to read as follows:

357.070 ~~[The]~~

1. Except as otherwise provided in subsection 2, the Attorney General shall investigate any alleged liability pursuant to this chapter and may bring a civil action pursuant to this chapter against the person liable.

2. A district attorney or city attorney may accept a designation from the Attorney General to investigate any alleged liability pursuant to this

chapter and may bring a civil action pursuant to this chapter against the person liable.

Sec. 8. NRS 357.080 is hereby amended to read as follows:

357.080 1. Except as otherwise provided in this section and NRS 357.090 and 357.100, a private plaintiff may maintain an action pursuant to this chapter on his or her own account and that of the State if money, property or services provided by the State are involved, or on his or her own account and that of a political subdivision if money, property or services provided by the political subdivision are involved, or on his or her own account and that of both the State and a political subdivision if both are involved. After such an action is commenced, it may be dismissed only with leave of the court, taking into account the public purposes of this chapter and the best interests of the parties.

2. If a private plaintiff brings an action pursuant to this chapter, no other person may bring another action pursuant to this chapter based on the same facts.

3. An action may not be maintained by a private plaintiff pursuant to this chapter:

(a) Against a member of the Legislature or the Judiciary, an elected officer of the Executive Department of the State Government, or a member of the governing body of a political subdivision, if the action is based upon evidence or information known to the State or political subdivision at the time the action was brought.

(b) If the action is based upon allegations or transactions that are the subject of a civil action or an administrative proceeding for a monetary penalty to which the State or political subdivision is already a party.

4. A complaint filed pursuant to this section must be placed under seal and so remain for at least 60 days or until the Attorney General ***or a designee of the Attorney General pursuant to NRS 357.070*** has elected whether to intervene. No service may be made upon the defendant until the complaint is unsealed.

5. On the date the private plaintiff files a complaint, he or she shall send a copy of the complaint to the Attorney General by mail with return receipt requested. The private plaintiff shall send with each copy of the complaint a written disclosure of substantially all material evidence and information he or she possesses. ***If a district attorney or city attorney has accepted a designation from the Attorney General pursuant to NRS 357.070, the Attorney General shall forward a copy of the complaint to the district attorney or city attorney, as applicable.***

6. An action pursuant to this chapter may be brought in any judicial district in this State in which the defendant can be found, resides, transacts business or in which any of the alleged fraudulent activities occurred.

Sec. 9. NRS 357.100 is hereby amended to read as follows:

357.100 1. No action may be maintained pursuant to this chapter that is based upon the public disclosure of allegations or transactions in a criminal,

civil or administrative hearing, in an investigation, report, hearing or audit conducted by or at the request of a house of the Legislature, an auditor or the governing body of a political subdivision, or from the news media, unless the action is brought by the Attorney General ***, a designee of the Attorney General pursuant to NRS 357.070*** or an original source of the information.

2. As used in this section, "original source" means a person:

(a) Who has direct and independent knowledge of the information on which the allegations were based;

(b) Who voluntarily provided the information to the State or political subdivision before bringing an action based on the information; and

(c) Whose information provided the basis or caused the making of the investigation, hearing, audit or report that led to the public disclosure.

Sec. 10. NRS 357.110 is hereby amended to read as follows:

357.110 1. Within 60 days after receiving a complaint and disclosure, the Attorney General ***or a designee of the Attorney General pursuant to NRS 357.070*** may intervene and proceed with the action or, for good cause shown, move the court to extend the time for his or her election whether to proceed. The motion may be supported by affidavits or other submissions in chambers.

2. If the Attorney General ***or the Attorney General's designee*** elects to intervene, the complaint must be unsealed. If the Attorney General ***or the Attorney General's designee*** elects not to intervene, the private plaintiff may proceed and the complaint must be unsealed.

Sec. 11. NRS 357.120 is hereby amended to read as follows:

357.120 1. If the Attorney General ***or a designee of the Attorney General pursuant to NRS 357.070*** intervenes, the private plaintiff remains a party to an action pursuant to NRS 357.080.

2. The Attorney General ***or the Attorney General's designee*** may move to dismiss the action for good cause. The private plaintiff must be notified of the filing of the motion and is entitled to oppose it and present evidence at the hearing.

3. Except as otherwise provided in this subsection, the Attorney General ***or the Attorney General's designee*** may settle the action. If the Attorney General ***or the Attorney General's designee*** intends to settle the action, the Attorney General ***or the Attorney General's designee*** shall notify the private plaintiff of that fact. Upon the request of the private plaintiff, the court shall determine whether settlement of the action is consistent with the public purposes of this chapter and shall not approve the settlement of the action unless it determines that such settlement is consistent with the public purposes of this chapter.

Sec. 12. NRS 357.130 is hereby amended to read as follows:

357.130 1. If the Attorney General ***or a designee of the Attorney General pursuant to NRS 357.070*** elects not to intervene in an action pursuant to NRS 357.080, the private plaintiff has the same rights in conducting the action as the Attorney General ***or the Attorney General's***

designee would have had. A copy of each pleading or other paper filed in the action, and a copy of the transcript of each deposition taken, must be mailed to the Attorney General ***or the Attorney General's designee*** if the Attorney General ***or the Attorney General's designee*** so requests and pays the cost thereof.

2. Upon timely application, the Attorney General ***or the Attorney General's designee*** may intervene in an action in which he or she has previously declined to intervene, if the interest of the State or a political subdivision in recovery of the money or property involved is not being adequately represented by the private plaintiff.

3. If the Attorney General ***or the Attorney General's designee*** so intervenes, the private plaintiff retains primary responsibility for conducting the action and any recovery must be apportioned as if the Attorney General ***or the Attorney General's designee*** had not intervened.

Sec. 13. NRS 357.150 is hereby amended to read as follows:

357.150 1. The court may stay discovery by a private plaintiff for not more than 60 days if the Attorney General ***or a designee of the Attorney General pursuant to NRS 357.070*** shows that the proposed discovery would interfere with the investigation or prosecution of a civil or criminal matter arising out of the same facts, whether or not the Attorney General ***or the Attorney General's designee*** participates in the action.

2. The court may extend the stay upon a further showing that the Attorney General ***or the Attorney General's designee*** has pursued the civil or criminal investigation or proceeding with reasonable diligence and the proposed discovery would interfere with its continuation. Discovery may not be stayed for a total of more than 6 months over the objection of the private plaintiff, except for good cause shown by the Attorney General ~~[.]~~ ***or the Attorney General's designee.***

3. A showing made pursuant to this section must be made in chambers.

Sec. 14. NRS 357.160 is hereby amended to read as follows:

357.160 Upon a showing by the Attorney General ***or a designee of the Attorney General pursuant to NRS 357.070*** that unrestricted participation by a private plaintiff would interfere with or unduly delay the conduct of an action, or would be repetitious, irrelevant or solely for harassment, the court may limit the participation of the private plaintiff by, among other measures, limiting:

1. The number of witnesses he or she may call;
2. The length of the testimony of the witnesses; or
3. His or her cross-examination of witnesses.

Sec. 15. NRS 357.170 is hereby amended to read as follows:

357.170 1. An action pursuant to this chapter may not be commenced more than 3 years after the date on which the Attorney General ***or a designee of the Attorney General pursuant to NRS 357.070*** discovers, or reasonably should have discovered, the fraudulent activity or more than 6 years after the fraudulent activity occurred, but in no event more than 10 years after the

fraudulent activity occurred. Within those limits, an action may be based upon fraudulent activity that occurred before July 1, 2007.

2. In an action pursuant to this chapter, the standard of proof is a preponderance of the evidence. A finding of guilty or guilty but mentally ill in a criminal proceeding charging false statement or fraud, whether upon a verdict of guilty or guilty but mentally ill or a plea of guilty, guilty but mentally ill or nolo contendere, estops the person found guilty or guilty but mentally ill from denying an essential element of that offense in an action pursuant to this chapter based upon the same transaction as the criminal proceeding.

Sec. 16. NRS 357.180 is hereby amended to read as follows:

357.180 1. If the Attorney General ***, a designee of the Attorney General pursuant to NRS 357.070*** or a private plaintiff prevails in or settles an action pursuant to NRS 357.080, the private plaintiff is entitled to a reasonable amount for expenses that the court finds were necessarily incurred, including reasonable costs, attorney's fees and the fees of expert consultants and expert witnesses. Those expenses must be awarded against the defendant, and may not be allowed against the State or a political subdivision.

2. If the defendant prevails in the action, the court may award the defendant reasonable expenses and attorney's fees against the party or parties who participated in the action if it finds that the action was clearly frivolous or vexatious or brought solely for harassment.

Sec. 17. NRS 357.200 is hereby amended to read as follows:

357.200 ***1.*** If the Attorney General initiates an action pursuant to this chapter, 33 percent of any recovery must be paid into the State General Fund to the credit of a special account, for use by the Attorney General as appropriated or authorized by the Legislature in the investigation and prosecution of false claims.

2. If a designee of the Attorney General pursuant to NRS 357.070 initiates an action pursuant to this chapter, 33 percent of any recovery must be paid into the general fund of the political subdivision that employs the Attorney General's designee.

Sec. 18. NRS 357.210 is hereby amended to read as follows:

357.210 1. If the Attorney General ***or a designee of the Attorney General pursuant to NRS 357.070*** intervenes at the outset in an action pursuant to NRS 357.080, the private plaintiff is entitled, except as otherwise provided in NRS 357.220, to receive not less than 15 percent or more than 33 percent of any recovery, according to the extent of his or her contribution to the conduct of the action.

2. If the Attorney General ***or the Attorney General's designee*** does not intervene in the action at the outset, the private plaintiff is entitled, except as otherwise provided in NRS 357.220, to receive not less than 25 percent or more than 50 percent of any recovery, as the court determines to be reasonable.

Sec. 19. NRS 357.220 is hereby amended to read as follows:

357.220 1. If the action is one described in NRS 357.090, the present or former employee of the State or political subdivision is not entitled to any minimum percentage of any recovery, but the court may award him or her no more than 33 percent of the recovery if the Attorney General ***or a designee of the Attorney General pursuant to NRS 357.070*** intervenes in the action at the outset, or no more than 50 percent if the Attorney General ***or the Attorney General's designee*** does not intervene, according to the significance of his or her information, the extent of his or her contribution to the conduct of the action and the response to his or her efforts to report the false claim and gain recovery through other official channels.

2. If the private plaintiff is a present or former employee of the State or a political subdivision and benefited financially from the fraudulent activity, he or she is not entitled to any minimum percentage of any recovery, but the court may award the private plaintiff no more than 33 percent of the recovery if the Attorney General ***or the Attorney General's designee*** intervenes in the action at the outset, or no more than 50 percent if the Attorney General ***or the Attorney General's designee*** does not intervene, according to the significance of his or her information, the extent of his or her contribution to the conduct of the action, the extent of his or her involvement in the fraudulent activity, his or her attempts to avoid or resist the activity and the other circumstances of the activity.

Sec. 20. This act becomes effective on July 1, 2011.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 76.

Bill read second time.

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

Amendment No. 139.

SUMMARY— ~~[Makes various changes concerning]~~ **Revises provisions concerning reinstatement of insurance under** the Public Employees' Benefits Program. (BDR 23-497)

AN ACT relating to the Public Employees' Benefits Program; revising provisions concerning reinstatement of insurance under the Program; ~~[authorizing the Board of the Program and certain advisory committees to meet in closed session under certain circumstances;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a retired public officer or employee of the State or a local government, or his or her surviving spouse, who has cancelled insurance provided under the Public Employees' Benefits Program is

authorized to reinstate such insurance, other than life insurance, during the so-called late enrollment period, which occurs in each even-numbered year. (NRS 287.0205, 287.0475) **Sections 1 and 3** of this bill eliminate the right of biennial reinstatement for insurance provided under the Program. However, **section 3**, with certain exceptions, authorizes a retired public officer or employee of the State or a participating local government, or his or her surviving spouse, to reinstate insurance if the retired public officer or employee ~~[had]~~ **did not have** more than one period during which he or she was **not** covered under the Program on or after October 1, 2011 ~~[.]~~ **, or on or after the date of his or her retirement, whichever is later.** **Section 3** also prohibits a public officer or employee who retired from a local governmental agency, or his or her surviving spouse, from reinstating health insurance under the Program if the Board of the Program has adopted regulations that exclude such persons from participation in the Program because they are eligible for health coverage from a health and welfare plan or trust that arose out of certain collective bargaining agreements or under certain federal laws.

~~[The Open Meeting Law requires all meetings of public bodies to be open and public unless otherwise provided by a specific statute. (NRS 241.020) However, a public body is authorized to hold a closed meeting, in relevant part, to consider the professional competence of a person, except in certain specified circumstances. (NRS 241.030) One such circumstance when a closed meeting is prohibited is if the person serves at the pleasure of a public body as a chief executive or administrative officer. (NRS 241.031) The Executive Officer of the Program is the chief administrative officer of the Program and serves at the pleasure of the Board. (NRS 287.0424) Section 2 of this bill provides an exception to the requirements of the Open Meeting Law to authorize the Board to conduct an annual review of the performance of the Executive Officer in closed session.~~

~~The Attorney General, who is charged with interpreting and enforcing the Open Meeting Law, has interpreted the Open Meeting Law to prohibit the use of a closed session to narrow down candidates for employment with a public body or to begin the selection process. (Nevada Open Meeting Law Manual § 9.04 (10th ed. 2005)) Section 2 creates an exception to this interpretation by authorizing any advisory committee appointed by the Board to recommend candidates for the position of Executive Officer to meet in closed session to deliberate on and select the final candidates for consideration by the Board.~~**]**

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

Section 1. NRS 287.0205 is hereby amended to read as follows:

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in

a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, ***except as otherwise provided in NRS 287.0475,*** in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

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

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

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

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

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

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

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

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

4. Reinstatement of insurance pursuant to subsection 1 excludes claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.

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

Sec. 2. ~~[NRS 287.0415 is hereby amended to read as follows:~~

~~287.0415 1. A majority of the members of the Board constitutes a quorum for the transaction of business.~~

~~2. The Governor shall designate one of the members of the Board to serve as the Chair.~~

~~3. The Board shall meet at least once every calendar quarter and at other times upon the call of the Chair.~~

~~4. The Board may meet in closed session:~~

~~(a) To discuss matters relating to personnel;~~

~~(b) With investment counsel to plan future investments or establish investment objectives and policies;~~

~~(c) With legal counsel to receive advice upon claims or suits by or against the Program;~~

~~(d) To prepare a request for a proposal or other solicitation for bids to be released by the Board for competitive bidding; [or]~~

~~(e) *To conduct an annual review of the performance of the Executive Officer; or*~~

~~*(f)* As otherwise provided pursuant to chapter 241 of NRS.~~

~~5. Except as otherwise provided in this subsection, if the Board causes a meeting to be transcribed by a court reporter who is certified pursuant to chapter 656 of NRS, the Board shall post a transcript of the meeting on its Internet website not later than 30 days after the meeting. The Board shall post a transcript of a closed session of the Board on its Internet website when the Board determines that the matters discussed no longer require confidentiality and, if applicable, the person whose character, conduct, competence or health was discussed in the closed session has consented to the posting.~~

~~6. The Board may appoint such advisory committees as it deems necessary to assist the Board in carrying out its duties pursuant to NRS 287.0402 to 287.049, inclusive. *If the Board appoints an advisory committee to evaluate applicants for the position of Executive Officer and recommend finalists to the Board, the advisory committee may meet in closed session to deliberate on and select the finalists.*~~

~~7. As used in this section, "request for a proposal" has the meaning ascribed to it in subsection 8 of NRS 333.020.]~~ **(Deleted by amendment.)**

Sec. 3. NRS 287.0475 is hereby amended to read as follows:

287.0475 1. ~~[A]~~ ***Except as otherwise provided in subsection 4, a*** retired public officer or employee or the surviving spouse of a retired public officer or employee who is deceased may ~~[, in any even-numbered year,]~~ reinstate any insurance under the Program, except life insurance, that, at the time of reinstatement, is provided by the Program if the retired public officer or employee ***:*** ~~[retired:]~~

(a) ***Retired:***

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

~~[(b)]~~ ***(2)*** Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State which is a participating local governmental agency at the time of the request for reinstatement ~~[.]~~ ***; and***

(b) Did not have more than one period during which the retired public officer or employee was not covered by insurance under the Program on or after October 1, 2011 ~~*[.]*~~ ***, or on or after the date of retirement of the public officer or employee, whichever is later.***

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

(a) Giving written notice to the Program of the intent of the public officer or employee or surviving spouse to reinstate the insurance not later than ~~[March 15 of an even numbered]~~ ***31 days before the commencement of the plan*** year;

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

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

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

4. If a retired public officer or employee retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency, the retired public officer or employee, or the surviving spouse of such a retired public officer or employee who is deceased, may not reinstate health insurance pursuant to subsection 1 if he or she is excluded from participation in the Program pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043.

Sec. 4. ~~[NRS 241.030 is hereby amended to read as follows:~~

~~241.030 1. Except as otherwise provided in this section and NRS 241.031 ,~~ ~~[and]~~ ~~241.033~~ ~~[,]~~ ***and 287.0415,*** ~~a public body may hold a closed meeting to:~~

~~(a) Consider the character, alleged misconduct, professional competence, or physical or mental health of a person.~~

~~(b) Prepare, revise, administer or grade examinations that are conducted by or on behalf of the public body.~~

~~(c) Consider an appeal by a person of the results of an examination that was conducted by or on behalf of the public body, except that any action on the appeal must be taken in an open meeting and the identity of the appellant must remain confidential.~~

~~2. A person whose character, alleged misconduct, professional competence, or physical or mental health will be considered by a public body during a meeting may waive the closure of the meeting and request that the meeting or relevant portion thereof be open to the public. A request described in this subsection:~~

~~(a) May be made at any time before or during the meeting; and~~

~~(b) Must be honored by the public body unless the consideration of the character, alleged misconduct, professional competence, or physical or mental health of the requester involves the appearance before the public body of another person who does not desire that the meeting or relevant portion thereof be open to the public.~~

~~3. A public body may close a meeting pursuant to subsection 1 upon a motion which specifies:~~

~~(a) The nature of the business to be considered; and~~

~~(b) The statutory authority pursuant to which the public body is authorized to close the meeting.~~

~~4. This chapter does not:~~

~~(a) Apply to judicial proceedings.~~

~~(b) Prevent the removal of any person who willfully disrupts a meeting to the extent that its orderly conduct is made impractical.~~

~~(c) Prevent the exclusion of witnesses from a public or private meeting during the examination of another witness.~~

~~(d) Require that any meeting be closed to the public.~~

~~(e) Permit a closed meeting for the discussion of the appointment of any person to public office or as a member of a public body.~~

~~5. The exceptions provided by this section, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.~~**] (Deleted by amendment.)**

Sec. 5. ~~[~~NRS 241.031 is hereby amended to read as follows:

~~241.031 1. Except as otherwise provided in subsection 2~~ **[,]** ~~***and NRS 287.0415,*** a public body shall not hold a closed meeting to consider the character, alleged misconduct or professional competence of:~~

~~(a) An elected member of a public body; or~~

~~(b) A person who is an appointed public officer or who serves at the pleasure of a public body as a chief executive or administrative officer or in a comparable position, including, without limitation, a president of a university, state college or community college within the Nevada System of Higher Education, a superintendent of a county school district, a county manager and a city manager.~~

~~2. The prohibition set forth in subsection 1 does not apply if the consideration of the character, alleged misconduct or professional competence of the person does not pertain to his or her role as an elected member of a public body or an appointed public officer or other officer~~

~~described in paragraph (b) of subsection 1, as applicable.]~~ **(Deleted by amendment.)**

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 80.

Bill read second time.

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

Amendment No. 248.

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

Legislative Counsel's Digest:

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

Under existing law, if a retired public officer or employee of the State or a local governmental agency, or the surviving spouse of such a retired officer or employee, who was formerly covered by health insurance provided under the Program, or under a plan offered by the local governmental employer, reinstates such insurance, the reinstated insurance excludes coverage for certain preexisting conditions during the first 12 months after such reinstatement. (NRS 287.0205, 287.0475) **Sections ~~[4]~~ 4.5 and 12** of this bill eliminate the exclusion for certain preexisting conditions as called for in the Patient Protection and Affordable Care Act. (Pub. L. No. 111-148, 124 Stat. 119) **Section 12** also prohibits a public officer or employee who retired from a local governmental agency, or his or her surviving spouse ~~[,]~~ **or domestic partner,** from reinstating health insurance under the Program if the Board has adopted regulations that exclude such persons from participation in the Program because they are eligible for health coverage from a health and welfare plan or trust that arose out of certain collective bargaining agreements or under certain federal laws.

Under existing law, a state agency is required to pay to the Program a certain amount to pay a portion of the cost of coverage under the Program for each state officer or employee of that state agency who participates in the Program. State officers and employees are required to pay the remaining portion of the costs of their coverage as well as the full amount of covering their dependents under the Program. The Board is authorized to allocate the money paid by the state agency between the costs of coverage for such

officers and employees and for their dependents. (NRS 287.044) **Section 9** of this bill clarifies the manner in which the Board may perform the allocation.

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

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

Existing law provides that the surviving spouse and any surviving child of a police officer or firefighter who was killed in the line of duty are eligible to obtain or continue coverage under the Program or a benefits plan established by his or her local governmental employer under certain circumstances. The public employer of the police officer or firefighter, or the State of Nevada in the case of a volunteer firefighter, is required to pay the entire cost of the coverage for the surviving spouse for life and the entire cost of the coverage for any surviving child at least until the child reaches 18 years of age and until the child reaches 23 years of age so long as the child is a full-time student. (NRS 287.0477) **Sections 5 and 13** of this bill provide that neither the public employer nor the State is required to pay the cost of the coverage for the surviving domestic partner of such a police officer or firefighter.

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

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

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

Sec. 3. ***1. The Executive Officer shall, submit a report regarding the administration and operation of the Program to the Board of the Public Employees' Benefits Program, Director of the Department of Administration, and to the Director of the Legislative Counsel Bureau for***

transmittal to the appropriate committees of the Legislature or, if the Legislature is not in regular session, to the Legislative Commission and the Interim Retirement and Benefits Committee of the Legislature created by NRS 218E.420. The report must include, without limitation:

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

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

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

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

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

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

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

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

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

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

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

retired public officer or employee to the active officers and employees and their dependents of that public employer:

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

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

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

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

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

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

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

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

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

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

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

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or

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

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

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

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

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

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

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

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

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

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

~~5.]~~ The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to the retired officer or employee and the retired officer's or employee's dependents at the time of retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience

of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

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

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

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

(b) Killed in the line of duty,

➥ may elect to accept or continue coverage under that group insurance, plan or medical and hospital service if the police officer or firefighter was a participant or would have been eligible to participate in the group insurance, plan or medical and hospital service on the date of the death of the police officer or firefighter. If the surviving spouse ***, surviving domestic partner*** or child elects to accept coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter would have been eligible to participate or to discontinue coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter was a participant, the spouse, ***domestic partner,*** child or legal guardian of the child must notify in writing the local governmental agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

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

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

~~(a) The]~~ ***the*** age of ~~[18]~~ ***26*** years ~~[, or~~

~~(b) The age of 23 years, if the child is enrolled as a full-time student in an accredited university, college or trade school.]~~ ***, unless the plan is grandfathered pursuant to the provisions of the Patient Protection and Affordable Care Act, Public Law 111-148.***

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

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

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

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

2. A retired person who continues coverage under the Public Employees' Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on behalf of retired officers or employees. A dependent of such a retired person has the option, which may be exercised to the same extent and in the same manner as the retired person, to cancel or continue coverage in effect on the date the retired person dies. The dependent is not required to continue to receive retirement payments from the Public Employees' Retirement System to continue coverage.

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

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

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

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

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

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

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

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

~~➥~~ **~~[~~** as the State pays pursuant to **~~[~~**~~subsection 1 of~~**~~]~~** NRS 287.046 for persons retired with state service who participate in the **~~[~~**~~Public Employees' Benefits~~**~~]~~** Program.

5. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State shall, for the purpose of establishing actuarial data to determine rates and coverage for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1, commingle the claims experience of those persons with the claims experience of active officers and employees and their dependents who participate in the group insurance, a plan of benefits or medical and hospital service.

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

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

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

287.043 1. The Board shall:

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

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

(2) May include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(a) Detailed financial results for the Program for the preceding plan year, including, without limitation, identification of the sources of revenue for the~~

~~Program and a detailed accounting of expenses which are segregated by each type of benefit offered by the Program, and administrative costs. The results must be provided separately concerning:~~

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

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

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

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

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

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

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

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

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

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

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

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

287.044 1. Except as otherwise provided in subsection 2, each participating state agency shall pay to the Program an amount specified by law for every state officer or employee who is employed by a participating

public agency on a permanent and full-time basis and elects to participate in the Program.

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

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

4. If a state officer or employee chooses to cover any dependents, whenever this option is made available by the Board, except as otherwise provided in NRS 287.021 and 287.0477, the state officer or employee must pay the difference between the amount of the premium or contribution for the coverage for the state officer or employee and such dependents and ~~[the]~~ ***any*** amount ~~[paid by the participating state agency that employs the officer or employee.]~~ ***allocated by the Board pursuant to subsection 6.***

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

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

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

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

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

3. ~~[Adjustments]~~ ***Except as otherwise provided in subsection 4, adjustments*** to the portion ***of the amount approved by the Legislature***

pursuant to subsection 2 to be paid by the Retirees' Fund ~~[must be as follows:~~

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

~~(1)~~] ***must be as follows:***

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

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

~~[(b) For persons who are~~]

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

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

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

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

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

~~adjustment exceed 75 percent of the base funding level defined by the Legislature.~~

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

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

~~[5.]~~ ***6.*** For the purposes of subsection ~~[1:]~~ ***3:***

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

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

~~[6.]~~ ***7.*** The Department shall agree through the Board with the insurer for billing of remaining premiums or contributions for the retired participant and the retired participant's dependents to the retired participant and to the retired participant's dependents who elect to continue coverage under the Program after the retired participant's death.

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

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

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

3. If the Board is subrogated to the rights of the ~~[officer, employee or dependent]~~ ***member*** or any ~~[successors]~~ ***successor*** in interest as provided in subsection 1, the Board has a lien upon the total proceeds of any recovery from the persons liable, whether the proceeds of the recovery are by way of a judgment or settlement or otherwise. Within 15 days after recovery by receipt of the proceeds of the judgment, settlement or other recovery, the ~~[officer, employee or dependent]~~ ***member*** or any successors in interest shall notify the

Board of the recovery and pay the Board the amount due to it pursuant to this section. The ~~[officer, employee or dependent]~~ ***member*** or any successors in interest are not entitled to double recovery for the same injury.

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

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

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

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

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

287.0475 1. A retired public officer or employee or the surviving spouse ***or surviving domestic partner*** of a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance under the Program, except life insurance, that, at the time of reinstatement, is provided by the Program if the retired public officer or employee retired:

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

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

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

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

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

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

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

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

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

2. Except as otherwise provided in subsection 4, the surviving spouse ***, surviving domestic partner*** and any surviving child of a volunteer firefighter who was killed in the line of duty and who was officially a member of a volunteer fire department in this State is eligible to join the Public Employees' Benefits Program. If such a spouse ***, domestic partner*** or child elects to join the Public Employees' Benefits Program, the spouse, ***domestic partner,*** child or legal guardian of the child must notify in writing the Board within 60 days after the date of death of the volunteer firefighter.

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

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

~~(a) The]~~ ***the*** age of ~~[18]~~ ***26*** years ~~[, or~~

~~(b) The age of 23 years, if the child is enrolled as a full-time student in an accredited university, college or trade school.]~~

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

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

Sec. 14. NRS 287.04366 is hereby repealed.

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

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

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

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

TEXT OF REPEALED SECTION

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

1. An annual audit of the Retirees' Fund to be conducted by an independent certified public accountant;

2. An annual report concerning the Retirees' Fund; and

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

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 98.

Bill read second time.

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

Amendment No. 128.

AN ACT relating to emergencies; enacting the Uniform Emergency Volunteer Health Practitioners Act, which allows a participating state to establish a system whereby medical and veterinary service providers from other states may register to provide volunteer medical and veterinary services in that state in the event of an emergency; allowing a participating state to determine how various licensing, liability and certain other state laws will apply to registered medical and veterinary service providers who provide such volunteer services in a state in which they are not licensed to practice; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Division of Emergency Management of the Department of Public Safety is required to implement a program for emergency management in this State to be used during an emergency. (NRS 414.040) This bill enacts the Uniform Emergency Volunteer Health Practitioners Act, and **section 22** of this bill authorizes the Division to designate a registration system whereby health care practitioners from other states may register to provide volunteer health care and veterinary services in this State in certain emergency situations. **Section 21** of this bill authorizes the Division to limit, restrict and regulate the activities of such registered volunteers during such an emergency. **Section 23** of this bill provides that such registered volunteers may only provide volunteer health care or veterinary services if they are licensed and in good standing in their home state. **Section 25** of this bill limits the practice in this State by such a registered volunteer to only those services within the volunteer's scope of practice, unless specifically authorized to practice outside that scope by the Division. **Section 25** also authorizes licensing boards or other disciplinary authorities in this State to impose administrative sanctions upon such registered volunteers for certain conduct, to report such sanctions to the state in which the volunteer is licensed and to impose administrative sanctions upon a health practitioner licensed in this State for certain conduct in another state if the practitioner was volunteering in that state under this Uniform Act. **Section 27** of this bill authorizes the Division to adopt regulations to carry out this Uniform Act.

Existing law sets forth that health care providers licensed in this State who render emergency care or assistance in certain emergencies are not liable for civil damages for any act or omission unless that act or omission rises to the level of gross negligence. (NRS 41.504, 41.505) Under existing law, certain volunteers who work with a state or local public organization are considered, for the purposes of eligibility for benefits under industrial insurance, to be employees of that organization at a wage of $100 per month. (NRS 616A.130) **Section 28** of this bill limits the liability of registered volunteer health practitioners volunteering in this State to only those acts or omissions in the provision of health care or veterinary services that rise to the level of gross negligence. **Section 29** of this bill makes such registered volunteers eligible, in certain circumstances, for the same industrial insurance benefits as other volunteers in this State, and for the same occupational disease benefits as employees of this State.

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

Section 1. Title 36 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 30, inclusive, of this act.

Sec. 2. ***Sections 2 to 30, inclusive, of this act may be cited as the Uniform Emergency Volunteer Health Practitioners Act.***

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 19, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Disaster relief organization" means an entity which provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and which:*

1. Is designated or recognized as a provider of those services pursuant to a disaster response and recovery plan adopted by an agency of the Federal Government, the Governor or the Division; or

2. Regularly plans and conducts its activities in coordination with an agency of the Federal Government or the Division.

Sec. 5. *"Division" means the Division of Emergency Management of the Department of Public Safety.*

Sec. 6. *"Emergency" means an event or condition that is proclaimed an emergency or disaster pursuant to NRS 414.070.*

Sec. 7. *"Emergency declaration" means a declaration of emergency issued by a person or entity authorized to do so pursuant to the laws of this State.*

Sec. 8. *"Emergency Management Assistance Compact" means the interstate compact approved by Congress by Public Law 104-321, 110 Stat. 3877, and codified as NRS 415.010.*

Sec. 9. *"Entity" means a person other than an individual.*

Sec. 10. *"Health facility" means an entity licensed under the laws of this or another state to provide health or veterinary services.*

Sec. 11. *"Health practitioner" means ~~[an]~~ :*

1. A provider of health care, as that term is defined in NRS 629.031;

2. Any other individual licensed to provide health care pursuant to the provisions of Title 54 of NRS; or

3. An individual licensed in the professions under the laws of ~~[this or]~~ another state to provide health or veterinary services.

Sec. 12. *"Health services" means treatment, care, advice or guidance, or other services or supplies, related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including, without limitation:*

1. The following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

(a) Preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care; and

(b) Counseling, assessment, procedures or other services;

2. The sale or dispensing of a drug, a device, equipment or another item to an individual in accordance with a prescription; and

3. Funeral, cremation, cemetery or other mortuary services.

Sec. 13. *"Host entity" means an entity operating in this State which uses volunteer health practitioners to respond to an emergency.*

Sec. 14. *"License" means authorization by a state to engage in the provision of health or veterinary services that would be unlawful to provide without the authorization. The term includes authorization under the laws of this State for an individual to provide health or veterinary services based upon a national certification issued by a public or private entity.*

Sec. 15. *"Person" means an individual, corporation, business trust, trust, partnership, limited-liability company, association, joint venture, public corporation, government or governmental subdivision, agency, instrumentality or any other legal or commercial entity.*

Sec. 16. *"Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including, without limitation, any conditions imposed by the relevant licensing authority.*

Sec. 17. *"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 18. *"Veterinary services" means treatment, care, advice or guidance, or other services or supplies, related to the health or death of an animal or animal populations, to the extent necessary to respond to an emergency, including, without limitation:*

1. Diagnosis, treatment or prevention of an animal's disease, injury or other physical or mental condition by the prescription, administration or dispensing of vaccine, medicine, surgery or therapy;

2. Use of a procedure for reproductive management; and

3. Monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans.

Sec. 19. *"Volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services. The term does not include a practitioner who receives compensation pursuant to a preexisting employment relationship with a host entity or affiliate which requires the practitioner to provide health services in this State, unless the practitioner is not a resident of this State and is employed by a disaster relief organization providing services in this State while an emergency declaration is in effect.*

Sec. 20. *Sections 2 to 30, inclusive, of this act apply to volunteer health practitioners who are registered with a registration system that complies with section 22 of this act and who provide health or veterinary services in this State for a host entity ~~[while]~~ :*

1. While an emergency declaration is in effect ~~[.]~~ ;

2. While participating in required training exercises to prepare for the declaration of an emergency; or

3. When responding to an event with the reasonable expectation that the event will be declared an emergency.

Sec. 21. *1. While an emergency declaration is in effect, the Division may by order limit, restrict or otherwise regulate:*

(a) The duration of practice by volunteer health practitioners;

(b) The geographical areas in which volunteer health practitioners may practice;

(c) The types of volunteer health practitioners who may practice; and

(d) Any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

2. An order issued pursuant to subsection 1 may take effect immediately, without prior notice or comment, and is not a regulation for the purposes of chapter 233B of NRS.

3. A host entity that uses volunteer health practitioners to provide health or veterinary services in this State shall:

(a) Consult with and coordinate its activities with the Division to the extent practicable to provide for the efficient and effective use of those volunteer health practitioners; and

(b) Comply with any laws other than sections 2 to 30, inclusive, of this act relating to the management of emergency health or veterinary services, including, without limitation, the provisions of chapter 414 of NRS.

Sec. 22. *1. To qualify as a registration system for volunteer health practitioners, a system must:*

(a) Accept applications for the registration of volunteer health practitioners before or during an emergency;

(b) Include information about the licensure and standing of health practitioners which is accessible by authorized persons;

(c) Be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before the practitioner provides health services or veterinary services pursuant to sections 2 to 30, inclusive, of this act; and

(d) Meet one of the following conditions:

(1) Be an emergency system for advance registration of volunteer health care practitioners established by a state and funded through the United States Department of Health and Human Services under Section 319I of the Public Health Service Act, 42 U.S.C. § 247d-7b, as amended;

(2) Be a local unit consisting of trained and equipped emergency response, public health and medical personnel formed pursuant to Section 2801 of the Public Health Service Act, 42 U.S.C. § 300hh, as amended;

(3) Be operated by a:

(I) Disaster relief organization;

(II) Licensing board;

(III) National or regional association of licensing boards or health practitioners;

(IV) Health facility that provides comprehensive inpatient and outpatient health care services, including, without limitation, a hospital; or

(V) Governmental entity; or

(4) Be designated by the Division as a registration system for the purposes of sections 2 to 30, inclusive, of this act.

2. While an emergency declaration is in effect, the Division, a person authorized to act on behalf of the Division or a host entity may confirm whether volunteer health practitioners utilized in this State are registered with a registration system that complies with subsection 1. Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.

3. Upon the request of a person or entity in this State authorized to do so pursuant to subsection 2, or a similarly authorized person or entity in another state, a registration system located in this State must notify the person or entity of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.

4. A host entity is not required to use the services of a volunteer health practitioner even if the practitioner is registered with a registration system which indicates that the practitioner is licensed and in good standing.

Sec. 23. ***1. Notwithstanding any other provision of law, while an emergency declaration is in effect, a volunteer health practitioner who is registered with a registration system that complies with section 22 of this act and who is licensed and in good standing in the state upon which the practitioner's registration is based may practice in this State to the extent authorized by sections 2 to 30, inclusive, of this act, as though the practitioner were licensed in this State.***

2. A volunteer health practitioner qualified under subsection 1 is not entitled to the protections of sections 2 to 30, inclusive, of this act if the practitioner is licensed in more than one state and any license of the practitioner is suspended, revoked or subject to an agency order limiting or restricting practice privileges, or has been voluntarily terminated under threat of sanction.

Sec. 24. ***1. Sections 2 to 30, inclusive, of this act do not affect credentialing or privileging standards of a health facility and do not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.***

2. As used in this section:

(a) "Credentialing" means obtaining, verifying and assessing the qualifications of a health practitioner to provide treatment, care or services in or for a health facility.

(b) "Privileging" means the authorizing by an appropriate authority, such as a governing body, of a health practitioner to provide specific treatment, care or services at a health facility subject to limits based on factors that include, without limitation, the practitioner's license, education, training, experience, competence, health status and specialized skill.

Sec. 25. *1. Subject to subsections 2 and 3, a volunteer health practitioner shall adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts or other laws of this State.*

2. Except as otherwise provided in subsection 3, sections 2 to 30, inclusive, of this act do not authorize a volunteer health practitioner to provide services that are outside the practitioner's scope of practice, even if a similarly licensed practitioner in this State would be allowed to provide the services.

3. The Division may modify or restrict the health or veterinary services that volunteer health practitioners may provide pursuant to sections 2 to 30, inclusive, of this act. An order under this subsection may take effect immediately, without prior notice or comment, and is not a regulation for the purposes of chapter 233B of NRS.

4. A host entity may restrict the health or veterinary services that a volunteer health practitioner is allowed to provide pursuant to sections 2 to 30, inclusive, of this act.

5. A volunteer health practitioner does not engage in unauthorized practice unless the practitioner has reason to know of any limitation, modification or restriction under this section or that a similarly licensed practitioner in this State would not be allowed to provide the services. A volunteer health practitioner has reason to know of a limitation, modification or restriction or that a similarly licensed practitioner in this State would not be allowed to provide a service if:

(a) The practitioner actually knows that the limitation, modification or restriction exists or that a similarly licensed practitioner in this State would not be allowed to provide the service; or

(b) From all the facts and circumstances known to the practitioner at the relevant time, a reasonable person would conclude that the limitation, modification or restriction exists or that a similarly licensed practitioner in this State would not be allowed to provide the service.

6. In addition to the authority granted by the laws of this State other than sections 2 to 30, inclusive, of this act to regulate the conduct of health practitioners, a licensing board or other disciplinary authority in this State:

(a) May impose administrative sanctions upon a health practitioner licensed in this State for conduct outside of this State in response to an out-of-state emergency;

(b) May impose administrative sanctions upon a practitioner not licensed in this State for conduct in this State in response to an in-state emergency; and

(c) Shall report any administrative sanctions imposed upon a practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the practitioner is known to be licensed.

7. In determining whether to impose administrative sanctions pursuant to subsection 6, a licensing board or other disciplinary authority shall consider the circumstances in which the conduct took place, including, without limitation, any exigent circumstances and the practitioner's scope of practice, education, training, experience and specialized skill.

Sec. 26. *1. Sections 2 to 30, inclusive, of this act do not limit any rights, privileges or immunities provided to volunteer health practitioners by laws other than sections 2 to 30, inclusive, of this act. Except as otherwise provided in subsection 2, sections 2 to 30, inclusive, of this act do not affect requirements for the use of health practitioners pursuant to the Emergency Management Assistance Compact.*

2. The Division, pursuant to the Emergency Management Assistance Compact, may incorporate into the emergency personnel of this State volunteer health practitioners who are not officers or employees of this State, a political subdivision of this State or a municipality or other local government within this State.

Sec. 27. *The Division may adopt regulations to carry out sections 2 to 30, inclusive, of this act. In doing so, the Division shall consult with the Governor and consider any pertinent rules or regulations promulgated by similarly empowered agencies in other states to promote uniformity in the application of sections 2 to 30, inclusive, of this act and make the emergency response systems in the various states reasonably compatible.*

Sec. 28. *1. Subject to subsection 3, a volunteer health practitioner who provides health or veterinary services pursuant to sections 2 to 30, inclusive, of this act is not liable for damages for an act or omission of the practitioner in providing those services.*

2. No person is vicariously liable for damages for an act or omission of a volunteer health practitioner if the practitioner is not liable for the damages under subsection 1.

3. This section does not limit the liability of a volunteer health practitioner for:

(a) Willful misconduct or wanton, grossly negligent, reckless or criminal conduct;

(b) An intentional tort;

(c) Breach of contract;

(d) A claim asserted by a host entity or by an entity located in this or another state which employs or uses the services of the practitioner; or

(e) An act or omission relating to the operation of a motor vehicle, vessel, aircraft or other vehicle.

4. A person who, pursuant to sections 2 to 30, inclusive, of this act, operates, uses or relies upon information provided by a volunteer health practitioner registration system is not liable for damages for an act or omission relating to that operation, use or reliance unless the act or omission constitutes an intentional tort, willful misconduct, or wanton, grossly negligent, reckless or criminal conduct.

5. In addition to the protections set forth in subsection 1, a volunteer health practitioner who provides health or veterinary services pursuant to sections 2 to 30, inclusive, of this act is entitled to all the rights, privileges or immunities provided by the laws of this State.

Sec. 29. ***1. A volunteer health practitioner who dies or is injured as a result of providing health or veterinary services pursuant to sections 2 to 30, inclusive, of this act is deemed to be an employee as defined in [NRS 616A.130] section 31.5 of this act for the purposes of receiving benefits for the death or injury pursuant to chapters 616A to 616D, inclusive, of NRS if:***

(a) The practitioner is not otherwise eligible for such benefits for the injury or death under the laws of this or another state; and

(b) The practitioner or, in the case of death, the practitioner's personal representative, [elects coverage] files a claim for compensation under chapters 616A to 616D, inclusive, of NRS. [by making a claim pursuant to those chapters.]

2. A volunteer health practitioner who dies or is injured as the result of an occupational disease arising from the provision of health or veterinary services pursuant to sections 2 to 30, inclusive, of this act is deemed to be an employee, as defined in NRS 617.070, for the purposes of receiving benefits for the death or injury under chapter 617 of NRS if:

(a) The practitioner is not otherwise eligible for such benefits for the injury or death under the laws of this or another state; and

(b) The practitioner or, in the case of death, the practitioner's personal representative, [elects coverage] files a claim for compensation under chapter 617 of NRS. [by making a claim pursuant to that chapter.]

3. The Division of Industrial Relations of the Department of Business and Industry may adopt regulations, enter into agreements with other states, or take other measures to facilitate the receipt of benefits for injury or death under chapters 616A to 617, inclusive, of NRS by volunteer health practitioners who reside in other states and may waive or modify requirements for filing, processing and paying claims that unreasonably burden the practitioners. To promote uniformity in the application of sections 2 to 30, inclusive, of this act with other states that enact similar legislation, the Division of Industrial Relations shall consult with, and consider the practices for filing, processing and paying claims by, agencies having similar authority in other states.

4. As used in this section, "injury" means a physical injury or mental injury, as described in NRS 616C.180, or a disease for which an employee of this State who is injured or contracts the disease in the course of the employee's employment would be entitled to benefits under chapters 616A to 617, inclusive, of NRS.

Sec. 30. ***In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.***

Sec. 31. NRS 414.040 is hereby amended to read as follows:

414.040 1. A Division of Emergency Management is hereby created within the Department of Public Safety. The Chief of the Division is appointed by and holds office at the pleasure of the Director of the Department of Public Safety. The Division is the State Agency for Emergency Management and the State Agency for Civil Defense for the purposes of the Compact ratified by the Legislature pursuant to NRS 415.010. The Chief is the State's Director of Emergency Management and the State's Director of Civil Defense for the purposes of that Compact.

2. The Chief may employ technical, clerical, stenographic and other personnel as may be required, and may make such expenditures therefor and for other expenses of his or her office within the appropriation therefor, or from other money made available to him or her for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

3. The Chief, subject to the direction and control of the Director, shall carry out the program for emergency management in this state. The Chief shall coordinate the activities of all organizations for emergency management within the State, maintain liaison with and cooperate with agencies and organizations of other states and of the Federal Government for emergency management and carry out such additional duties as may be prescribed by the Director.

4. The Chief shall assist in the development of comprehensive, coordinated plans for emergency management by adopting an integrated process, using the partnership of governmental entities, business and industry, volunteer organizations and other interested persons, for the mitigation of, preparation for, response to and recovery from emergencies or disasters. In adopting this process, the Chief shall conduct activities designed to:

(a) Eliminate or reduce the probability that an emergency will occur or to reduce the effects of unavoidable disasters;

(b) Prepare state and local governmental agencies, private organizations and other persons to be capable of responding appropriately if an emergency or disaster occurs by fostering the adoption of plans for emergency operations, conducting exercises to test those plans, training necessary personnel and acquiring necessary resources;

(c) Test periodically plans for emergency operations to ensure that the activities of state and local governmental agencies, private organizations and other persons are coordinated;

(d) Provide assistance to victims, prevent further injury or damage to persons or property and increase the effectiveness of recovery operations; and

(e) Restore the operation of vital community life-support systems and return persons and property affected by an emergency or disaster to a condition that is comparable to or better than what existed before the emergency or disaster occurred.

5. ***The Division shall perform the duties required pursuant to sections 2 to 30, inclusive, of this act.***

6. The Division shall perform the duties required pursuant to NRS 353.2753 at the request of a state agency or local government.

Sec. 31.5. **Chapter 616A of NRS is hereby amended by adding thereto a new section to read as follows:**

A volunteer health practitioner, as defined in section 19 of this act, who provides health or veterinary services pursuant to sections 2 to 30, inclusive, of this act, shall be deemed for the purposes of chapters 616A to 616D, inclusive, of NRS to be an employee of the host entity, as defined in section 13 of this act, or a registration system that qualifies pursuant to section 22 of this act, at the wage of $100 per month and, in the event of injury while the provisions of sections 2 to 30, inclusive, of this act apply to the volunteer health practitioner, is entitled to the benefits of those chapters.

Sec. 31.8. **NRS 616A.025 is hereby amended to read as follows:**

616A.025 As used in chapters 616A to 616D, inclusive, of NRS, unless the context otherwise requires, the words and terms defined in NRS 616A.030 to 616A.360, inclusive, ***and section 31.5 of this act*** have the meanings ascribed to them in those sections.

Sec. 32. ~~[NRS 616A.130 is hereby amended to read as follows:~~

~~616A.130 Persons who perform volunteer work in any formal program which is being conducted:~~

~~1. Within a state or local public organization;~~

~~2. By a federally assisted organization;~~ ~~[or]~~

~~3. *Pursuant to sections 2 to 30, inclusive, of this act; or*~~

~~*4.* By a private, incorporated, nonprofit organization which provides services to the general community,~~

~~* and who are not specifically covered by any other provisions of chapters 616A to 616D, inclusive, of NRS, while engaged in such volunteer work, may be deemed by an insurer, for the purposes of those chapters, as employees of that organization at a wage of $100 per month. Such persons are entitled to the benefits of those chapters when the organization approves coverage and complies with the provisions of those chapters and regulations adopted pursuant to them.]~~ **(Deleted by amendment.)**

Sec. 32.5. **NRS 616A.105 is hereby amended to read as follows:**

616A.105 "Employee" and "worker" are used interchangeably in chapters 616A to 616D, inclusive, of NRS and mean every person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and include, but not exclusively:

1. Aliens and minors.
2. All elected and appointed paid public officers.
3. Members of boards of directors of quasi-public or private corporations while rendering actual service for such corporations for pay.

4. Musicians providing music for hire, including members of local supporting bands and orchestras commonly known as house bands.

5. Volunteer health practitioners, as defined in section 19 of this act, who are providing health or veterinary services pursuant to sections 2 to 30, inclusive, of this act and are entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of section 29 of this act.

Sec. 32.8. **NRS 616B.031 is hereby amended to read as follows:**

616B.031 1. Except as otherwise provided in subsection 2, an insurer shall not issue a policy of industrial insurance to an employer that does not cover each employee of that employer who satisfies the definition of employee set forth in NRS 616A.105 to 616A.225, inclusive ~~.~~ ***, and section 31.5 of this act.***

2. If the employer is a contractor or subcontractor who is engaged in the construction of a project that is covered by a consolidated insurance program established pursuant to NRS 616B.710 to 616B.737, inclusive, an insurer may issue a policy of industrial insurance to that employer which does not cover an employee who:

(a) Is assigned to participate in the construction of the project that is covered by the consolidated insurance program; and

(b) Works exclusively at the site of the construction project that is covered by the consolidated insurance program.

Sec. 33. NRS 617.070 is hereby amended to read as follows:

617.070 "Employee" and "worker" are used interchangeably in this chapter and mean every person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and include, but not exclusively:

1. Aliens and minors.

2. All elected and appointed paid public officers.

3. Members of boards of directors of quasi-public or private corporations while rendering actual service for such corporations for pay.

4. Volunteer firefighters entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145.

5. Musicians providing music for hire, including members of local supporting bands and orchestras commonly known as house bands.

6. Volunteer health practitioners, as defined in section 19 of this act, who are providing health or veterinary services pursuant to sections 2 to 30, inclusive, of this act and are entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of section 29 of this act.

Sec. 33.5. **The Division of Emergency Management of the Department of Public Safety shall adopt any regulations necessary to implement the provisions of this act on or before October 1, 2011.**

Sec. 34. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 132.

Bill read second time.

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

Amendment No. 241.

AN ACT relating to elections; revising provisions governing the dates for certain city elections; ~~[revising deadlines for the submission of certain campaign contribution and expenditure reports relating to city elections;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law authorizes the governing body of a city incorporated pursuant to general law to choose by ordinance whether to: (1) hold city elections on the statewide election cycle; or (2) hold a primary city election on the first Tuesday after the first Monday in April and hold a general city election on the first Tuesday after the first Monday in June of odd-numbered years. (NRS 293C.115, 293C.140, 293C.145, 293C.175) Sections 4-7 and 50 of this bill require that cities be on the statewide election cycle as of the year 2014. Sections 1, 3, 6-12, 18 and 19 of this bill amend various other dates relating to city elections, such as the date for filing declarations of candidacy. Section 48 of this bill provides that officials of affected cities who are elected in 2011 will hold office until the city elections are held in 2014, and that officials of such cities who are elected in 2013 will hold office until the city elections are held in 2016.]~~

Certain cities that are created by charters hold general municipal elections in June of odd-numbered years (Boulder City, Caliente, Elko, Henderson, Las Vegas, North Las Vegas and Yerington). **Sections 20-47** of this bill amend the charters of those cities to ~~[require that the cities hold primary and general city elections on the same dates as the statewide primary and general elections. The terms of office of officials of such cities who were elected in 2009 or who will be elected in 2011 (and the terms of office of municipal judges who were elected to 6-year terms in 2007) will be extended by 1 year to allow for the transition to the statewide election cycle.~~

~~Sections 13-17 of this bill make conforming changes to provisions relating to reporting campaign contributions and expenditures for city elections so that those reports are required to be submitted on the same dates as are required for statewide primary and general elections.]~~ **authorize the city councils of those cities to choose by ordinance whether to: (1) hold city elections on the state election cycle; or (2) continue holding the elections in June, as provided in their respective city charters.**

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

Section 1. ~~[NRS 293.059 is hereby amended to read as follows:~~

~~293.059 "General city election" means an election held pursuant to NRS [293C.115,] 293C.140 or 293C.145. The term includes a general municipal election held pursuant to the provisions of a special charter of an incorporated city.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[NRS 293.079 is hereby amended to read as follows:~~

~~293.079 "Primary city election" means an election held pursuant to NRS [293C.115 or] 293C.175. The term includes a primary municipal election held pursuant to the provisions of a special charter of an incorporated city.]~~ **(Deleted by amendment.)**

Sec. 3. ~~[NRS 293B.354 is hereby amended to read as follows:~~

~~293B.354 1. The county clerk shall, not later than April 15 of each year in which a general election is held, submit to the Secretary of State for approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.~~

~~2. The city clerk shall, not later than [January 1] *April 15* of each year in which a general city election is held, submit to the Secretary of State for approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of the ballots at a polling place, receiving center or central counting place.~~

~~3. Each plan must include:~~

~~(a) The location of the central counting place and of each polling place and receiving center;~~

~~(b) A procedure for the establishment of areas within each polling place and receiving center and the central counting place from which members of the general public may observe the activities set forth in subsections 1 and 2;~~

~~(c) The requirements concerning the conduct of the members of the general public who observe the activities set forth in subsections 1 and 2; and~~

~~(d) Any other provisions relating to the accommodation of members of the general public who observe the activities set forth in subsections 1 and 2 which the county or city clerk considers appropriate.]~~ **(Deleted by amendment.)**

Sec. 4. ~~[NRS 293C.115 is hereby amended to read as follows:~~

~~293C.115 [1.] The governing body of a city incorporated pursuant to general law [may] *shall* by ordinance provide for a primary city election and a general city election on [:~~

~~(a) The dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS; or~~

~~(b) The] *the* dates set forth for primary city elections and general city elections pursuant to the provisions of this chapter.~~

~~[2. If a governing body of a city adopts an ordinance pursuant to paragraph (a) of subsection 1, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165, and in NRS 293.175, 293.177, 293.345 and 293.368 apply for purposes of conducting the primary city elections and general city elections of the city.~~

~~3. If a governing body of a city adopts an ordinance pursuant to subsection 1:~~

~~(a) The term of office of any elected city official may not be shortened as a result of the ordinance; and~~

~~(b) Each elected city official holds office until the end of his term and until his successor has been elected and qualified.]~~ **(Deleted by amendment.)**

Sec. 5. ~~[NRS 293C.140 is hereby amended to read as follows:~~

~~293C.140 1.~~ **[**Except as otherwise provided in NRS 293C.115, a**]** ~~***A***~~ general city election must be held in each city of population categories one and two on the first Tuesday after the first Monday in **[**June**]** ***November*** of the first **[**odd numbered**]** ***even-numbered*** year after incorporation, and **[**on the same day every**]** ***at each successive interval of*** 2 years **, [**thereafter as determined by law, ordinance or resolution,**]** at which time there must be elected the elective city officers, the offices of which are required next to be filled by election. All candidates, except as otherwise provided in NRS 266.220, at the general city election must be voted upon by the electors of the city at large.

~~2.~~ **[**Unless the terms of office of city council members are extended by an ordinance adopted pursuant to NRS 293C.115, the**]** ***The*** terms of office are 4 years, which terms must be staggered. The council members elected to office immediately after incorporation shall decide, by lot, among themselves which of their offices expire at the next general city election, and thereafter the terms of office must be 4 years **. [**unless the terms are extended by an ordinance adopted pursuant to NRS 293C.115.**]** **(Deleted by amendment.)**

Sec. 6. ~~[NRS 293C.145 is hereby amended to read as follows:~~

~~293C.145 1.~~ **[**Except as otherwise provided in NRS 293C.115, a**]** ~~***A***~~ general city election must be held in each city of population category three on the first Tuesday after the first Monday in **[**June**]** ***November*** of the first **[**odd numbered**]** ***even-numbered*** year after incorporation, and **[**on the same day every**]** ***at each successive interval of*** 2 years **. [**thereafter, as determined by ordinance.**]**

~~2. There must be one mayor and three or five council members, as the city council shall provide by ordinance, for each city of population category three.~~ **[**Unless the terms of office of the mayor and the council members are extended by an ordinance adopted pursuant to NRS 293C.115, the**]** ***The*** terms of office of the mayor and the council members are 4 years, which terms must be staggered. The mayor and council members elected to office immediately after incorporation shall decide, by lot, among themselves which two of their offices expire at the next general city election, and

~~thereafter the terms of office must be 4 years.~~ **[**~~unless the terms are extended by an ordinance adopted pursuant to NRS 293C.115.~~**]** ~~If a city council thereafter increases the number of council members, it shall, by lot, stagger the initial terms of the additional members.~~

~~3. —~~**[**~~Except as otherwise provided in NRS 293C.115, a~~**]** ~~**A** candidate for any office to be voted for at the general city election must file a declaration of candidacy with the city clerk not~~ **[**~~less than 60 days nor more than 70 days before the day of the general city election.~~**]** ***earlier than the first Monday in March preceding the general city election and not later than 5 p.m. on the second Friday after the first Monday in March.*** ~~The city clerk shall charge and collect from the candidate and the candidate must pay to the city clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the city council by ordinance or resolution.~~

~~4. —Candidates for mayor must be voted upon by the electors of the city at large. Candidates for the city council must be voted upon by the electors of their respective wards to represent the wards in which they reside or by the electors of the city at large in accordance with the provisions of chapter 266 of NRS.~~**] (Deleted by amendment.)**

Sec. 7. ~~**[**NRS 293C.175 is hereby amended to read as follows:~~

~~293C.175 1. —~~**[**~~Except as otherwise provided in NRS 293C.115, a~~**]** ~~**A** primary city election must be held in each city of population category one, and in each city of population category two that has so provided by ordinance, on the~~ **[**~~first~~**]** ***second*** ~~Tuesday~~ **[**~~after the first Monday~~**]** ~~in~~ **[**~~April~~**]** ***June*** ~~of every year in which a general city election is to be held, at which time there must be nominated candidates for offices to be voted for at the next general city election.~~

~~2. —~~**[**~~Except as otherwise provided in NRS 293C.115, a~~**]** ~~**A** candidate for any office to be voted for at the primary city election must file a declaration of candidacy with the city clerk not~~ **[**~~less than 60 days or more than 70 days before the date of the primary city election.~~**]** ***earlier than the first Monday in March preceding the general city election and not later than 5 p.m. on the second Friday after the first Monday in March.*** ~~The city clerk shall charge and collect from the candidate and the candidate must pay to the city clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the governing body of the city by ordinance or resolution. The filing fees collected by the city clerk must be deposited to the credit of the general fund of the city.~~

~~3. —All candidates, except as otherwise provided in NRS 266.220, must be voted upon by the electors of the city at large.~~

~~4. —If, in a primary city election held in a city of population category one or two, one candidate receives more than a majority of votes cast in that election for the office for which he or she is a candidate, the candidate must be declared elected to the office and the candidate's name must not be placed on the ballot for the general city election. If, in the primary city election, no candidate receives a majority of votes cast in that election for the office for~~

~~which he or she is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general city election.~~] **(Deleted by amendment.)**

Sec. 8. ~~[NRS 293C.185 is hereby amended to read as follows:~~

~~293C.185 1. Except as otherwise provided in NRS~~ [~~293C.115 and~~] ~~293C.190, a name may not be printed on a ballot to be used at a primary city election unless the person named has filed a declaration of candidacy or an acceptance of candidacy and has paid the fee established by the governing body of the city not earlier than~~ [~~70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.~~] ***~~the first Monday in March preceding the general city election and not later than 5 p.m. on the second Friday after the first Monday in March.~~***

~~2. A declaration of candidacy required to be filed by this section must be in substantially the following form:~~

~~DECLARATION OF CANDIDACY OF ..... FOR THE OFFICE OF .....~~

~~State of Nevada~~

~~City of~~

~~For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, ..., the undersigned do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to constructive, residence in the city, township or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.~~

~~(Designation of name)~~

~~(Signature of candidate for office)~~

~~Subscribed and sworn to before me~~

~~this ..... day of the month of ..... of the year .....~~

~~Notary Public or other person~~
~~authorized to administer an oath~~

~~3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:~~

~~(a) The candidate's address is listed as a post office box unless a street address has not been assigned to the residence; or~~

~~(b) The candidate does not present to the filing officer:~~

~~(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or~~

~~(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.~~

~~4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:~~

~~(a) May not be withheld from the public; and~~

~~(b) Must not contain the social security number or driver's license or identification card number of the candidate.~~

~~5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the city clerk duplicate copies of the process. The city clerk shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the city clerk a different address for that purpose, in which case the city clerk shall mail the copy to the last address so designated.~~

~~6. If the city clerk receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the city clerk:~~

~~(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored by a court of competent jurisdiction; and~~

~~(b) Shall transmit the credible evidence and the findings from such investigation to the city attorney.~~

~~7. The receipt of information by the city attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the city clerk must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.]~~

(Deleted by amendment.)

Sec. 9. ~~[NRS 293C.190 is hereby amended to read as follows:~~

~~293C.190 1. [Except as otherwise provided in NRS 293C.115, a] *A* vacancy occurring in a nomination for a city office after the close of filing and on or before 5 p.m. [of] *on* the [first] *second* Tuesday [after the first Monday in March in a year in which a general city election is held] *in April* must be filled by filing a nominating petition that is signed by at least 1 percent of the persons who are registered to vote and who voted for that office at the last preceding general city election. [Except as otherwise provided in NRS 293C.115, the] *The* petition must be filed not earlier than the [third] *first* Tuesday in [February] *March* and not later than the [third] *fourth* Tuesday [after the third Monday] in [March.] *April.* A candidate nominated pursuant to the provisions of this subsection may be elected only at a general city election, and the candidate's name must not appear on the ballot for a primary city election.~~

~~2. [Except as otherwise provided in NRS 293C.115, a] *A* vacancy occurring in a nomination for a city office after 5 p.m. [of] *on* the [first] *second* Tuesday [after the first Monday in March] *in April* and on or before 5 p.m. [of] *on* the [second] *first* Tuesday after the [second Monday in April] *primary city election* must be filled by the person who received the next highest vote for the nomination in the primary city election.~~

~~3. [Except to place a candidate nominated pursuant to subsection 1 on the ballot and except as otherwise provided in NRS 293C.115, no] *No* change may be made on the ballot for the general city election after 5 p.m. [of] *on* the [second] *first* Tuesday after the [second Monday in April of the year in which the general] *primary* city election . [is held.] If a nominee dies after that time and date, the nominee's name must remain on the ballot for the general city election and, if elected, a vacancy exists.~~

~~4. [Except as otherwise provided in NRS 293C.115, all] *All* designations provided for in this section must be filed on or before 5 p.m. on the [second] *first* Tuesday after the [second Monday in April of the year in which the general] *primary* city election . [is held.] The filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on that date.]~~

(Deleted by amendment.)

Sec. 10. ~~[NRS 293C.291 is hereby amended to read as follows:~~

293C.291—If a candidate whose name appears on the ballot at a primary city election or general city election dies after the applicable date set forth in [:

1.] —NRS 293C.370 [; or

2.—NRS 293.368, if the governing body of the city has adopted an ordinance pursuant to paragraph (a) of subsection 1 of NRS 293C.115,

→] but before the time of the closing of the polls on the day of the election, the city clerk shall post a notice of the candidate's death at each polling place where the candidate's name will appear on the ballot for the primary city election or general city election.] **(Deleted by amendment.)**

Sec. 11. [NRS 293C.345 is hereby amended to read as follows:

293C.345—[Except as otherwise provided in NRS 293C.115, the] ***The*** city clerk shall mail to each registered voter in each mailing precinct and in each absent ballot mailing precinct, before 5 p.m. on the third Thursday in [March] ***May*** and before 5 p.m. on the fourth Tuesday in [May] ***October*** of any year in which a general city election is held, an official mailing ballot to be voted by the voter at the election.] **(Deleted by amendment.)**

Sec. 12. [NRS 293C.370 is hereby amended to read as follows:

293C.370—[Except as otherwise provided in NRS 293C.115:]

1.—Whenever a candidate whose name appears upon the ballot at a primary city election dies after 5 p.m. [of] ***on*** the [first] ***second*** Tuesday [after the first Monday] in [March,] ***April,*** the deceased candidate's name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

2.—If the deceased candidate on the ballot at the primary city election receives the number of votes required to receive the nomination to the office for which he or she was a candidate, the nomination is filled as provided in subsection 2 of NRS 293C.190.

3.—Whenever a candidate whose name appears upon the ballot at a general city election dies after 5 p.m. [of] ***on*** the [second] ***first*** Tuesday after the [second Monday in April,] ***primary city election,*** the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

4.—If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, the deceased candidate shall be deemed elected and the office to which he or she was elected shall be deemed vacant at the beginning of the term for which he or she was elected. The vacancy created must be filled in the same manner as if the candidate had died after taking office for that term.] **(Deleted by amendment.)**

Sec. 13. [NRS 294A.140 is hereby amended to read as follows:

294A.140—1.—Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an

~~expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party, committee sponsored by a political party and business entity which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The provisions of this subsection apply to the person, committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.~~

~~2. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of the candidate for office at a primary election [, primary city election,] or general election [or general city election] or on behalf of a group of such candidates shall, if the general election [or general city election] for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:~~

~~(a) Seven days before the primary election [or primary city election] for that office, for the period from the January 1 immediately preceding the primary election [or primary city election] through 12 days before the primary election ; [or primary city election;]~~

~~(b) Seven days before the general election [or general city election] for that office, for the period from 11 days before the primary election [or primary city election] through 12 days before the general election ; [or general city election;] and~~

~~(c) July 15 of the year of the general election [or general city election] for that office, for the period from 11 days before the general election [or general city election] through June 30 of that year,~~

~~→ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.~~

~~3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $100 and contributions which a contributor has made cumulatively in excess of $100 since the beginning of the current reporting period.~~

4. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

→ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

→ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

6. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of candidates for offices at such special elections shall report each contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373

~~and signed by the person or a representative of the committee, political party or business entity under penalty of perjury, 30 days after:~~

~~(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or~~

~~(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.~~

~~7. The reports of contributions required pursuant to this section must be filed with:~~

~~(a) If the candidate is elected from one county, the county clerk of that county;~~

~~(b) If the candidate is elected from one city, the city clerk of that city; or~~

~~(c) If the candidate is elected from more than one county or city, the Secretary of State.~~

~~8. A person or entity may file the report with the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.~~

~~10. Every person, committee, political party or business entity described in subsection 1 shall file a report required by this section even if the person, committee, political party or business entity receives no contributions.~~**]**

(Deleted by amendment.)

Sec. 14. ~~[NRS 294A.150 is hereby amended to read as follows:~~

~~294A.150 1. Except as otherwise provided in NRS 294A.283, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions shall, not later than January 15 of each year that the provisions of this subsection apply to the person, group of persons or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of $1,000 received during that period and contributions received during the period from a contributor which cumulatively exceed $1,000. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under penalty of~~

~~perjury. The provisions of this subsection apply to the person, group of persons or business entity:~~

~~(a) Each year in which:~~

~~(1) An election or city election is held for each question for which the person, group of persons or business entity advocates passage or defeat; or~~

~~(2) A person, group of persons or business entity receives or expends money in excess of $10,000 to advocate the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election; and~~

~~(b) The year after each year described in paragraph (a).~~

~~2. If a question is on the ballot at a primary election [or primary city election] and the general election [or general city election] immediately following that primary election [or primary city election] is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. If a question is on the ballot at a general election [or general city election] held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. A person, group of persons or business entity described in this subsection shall, not later than:~~

~~(a) Seven days before the primary election , [or primary city election,] for the period from the January 1 immediately preceding the primary election [or primary city election] through 12 days before the primary election ; [or primary city election;]~~

~~(b) Seven days before the general election , [or general city election,] for the period from 11 days before the primary election [or primary city election] through 12 days before the general election ; [or general city election;] and~~

~~(c) July 15 of the year of the general election [or general city election,] for the period from 11 days before the general election [or general city election] through June 30 of that year,~~

~~" report each campaign contribution in excess of $1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed $1,000. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under penalty of perjury.~~

~~3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $1,000 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.~~

~~4. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. Except as otherwise provided in NRS 294A.283, if a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. A person, group of persons or business entity described in this subsection shall, not later than:~~

~~(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and~~

~~(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,~~

~~→ report each campaign contribution in excess of $1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed $1,000. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under penalty of perjury.~~

~~5. Except as otherwise provided in subsection 6, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a special election and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions shall, not later than:~~

~~(a) Seven days before the special election, for the period from the date that the question qualified for the ballot through 12 days before the special election; and~~

~~(b) Thirty days after the special election, for the remaining period through the special election,~~

~~→ report each campaign contribution in excess of $1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed $1,000. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under penalty of perjury.~~

~~6. Every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions shall report each of the contributions received on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under penalty of perjury, 30 days after:~~

~~(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or~~

~~(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.~~

~~7. The reports required pursuant to this section must be filed with:~~

~~(a) If the question is submitted to the voters of one county, the county clerk of that county;~~

~~(b) If the question is submitted to the voters of one city, the city clerk of that city; or~~

~~(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.~~

~~8. A person may mail or transmit the report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~9. If the person or group of persons, including a business entity, is advocating passage or defeat of a group of questions, the reports must be itemized by question or petition.~~

~~10. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.~~] **(Deleted by amendment.)**

Sec. 15. ~~[NRS 294A.210 is hereby amended to read as follows:~~

~~294A.210 1. Every person who is not under the direction or control of a candidate for an office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury. The provisions of this subsection apply to the person, committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.~~

~~2. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election~~ [~~, primary city election,~~] ~~or~~ ~~general election~~ [~~or general city election~~] ~~or a group of such candidates shall, if the general election~~ [~~or general city election~~] ~~for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:~~

~~(a) Seven days before the primary election~~ [~~or primary city election~~] ~~for that office, for the period from the January 1 immediately preceding the primary election~~ [~~or primary city election~~] ~~through 12 days before the primary election ;~~ [~~or primary city election;~~]

~~(b) Seven days before the general election~~ [~~or general city election~~] ~~for that office, for the period from 11 days before the primary election~~ [~~or primary city election~~] ~~through 12 days before the general election ;~~ [~~or general city election;~~] ~~and~~

~~(c) July 15 of the year of the general election~~ [~~or general city election~~] ~~for that office, for the period from 11 days before the general election~~ [~~or general city election~~] ~~through the June 30 of that year,~~

~~" report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of~~

~~$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.~~

~~3. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:~~

~~(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and~~

~~(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,~~

~~→ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.~~

~~4. Except as otherwise provided in subsection 5, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:~~

~~(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and~~

~~(b) Thirty days after the special election, for the remaining period through the special election,~~

~~→ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.~~

~~5. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of such candidates shall list each expenditure made on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or~~

~~a representative of the committee, political party or business entity under penalty of perjury, 30 days after:~~

~~(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or~~

~~(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.~~

~~6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.~~

~~7. The reports must be filed with:~~

~~(a) If the candidate is elected from one county, the county clerk of that county;~~

~~(b) If the candidate is elected from one city, the city clerk of that city; or~~

~~(c) If the candidate is elected from more than one county or city, the Secretary of State.~~

~~8. If an expenditure is made on behalf of a group of candidates, the reports must be itemized by the candidate. A person may mail or transmit the report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.~~

~~10. Every person, committee, political party or business entity described in subsection 1 shall file a report required by this section even if the person, committee, political party or business entity receives no contributions.~~**]**

(Deleted by amendment.)

Sec. 16. ~~[NRS 294A.220 is hereby amended to read as follows:~~

~~294A.220 1. Except as otherwise provided in NRS 294A.283, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf~~

~~of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under penalty of perjury. The provisions of this subsection apply to the person, group of persons or business entity:~~

~~(a) Each year in which:~~

~~(1) An election or city election is held for a question for which the person, group of persons or business entity advocates passage or defeat; or~~

~~(2) A person, group of persons or business entity receives or expends money in excess of $10,000 to advocate the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election; and~~

~~(b) The year after each year described in paragraph (a).~~

~~2. If a question is on the ballot at a primary election [or primary city election] and the general election [or general city election] immediately following that primary election [or primary city election] is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. If a question is on the ballot at a general election [or general city election] held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. A person, group of persons or business entity described in this subsection shall, not later than:~~

~~(a) Seven days before the primary election , [or primary city election,] for the period from the January 1 immediately preceding the primary election [or primary city election] through 12 days before the primary election ; [or primary city election;]~~

~~(b) Seven days before the general election , [or general city election,] for the period from 11 days before the primary election [or primary city election] through 12 days before the general election ; [or general city election;] and~~

~~(c) July 15 of the year of the general election , [or general city election,] for the period from 11 days before the general election [or general city election] through the June 30 immediately preceding that July 15,~~

~~→ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on~~

~~the ballot in excess of $1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under penalty of perjury.~~

~~3. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. Except as otherwise provided in NRS 294A.283, if a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of the question or a group of questions that includes the question and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions shall comply with the requirements of this subsection. A person, group of persons or business entity described in this subsection shall, not later than:~~

~~(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and~~

~~(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,~~

~~→ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under penalty of perjury.~~

~~4. Except as otherwise provided in subsection 5, every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:~~

~~(a) Seven days before the special election, for the period from the date the question qualified for the ballot through 12 days before the special election; and~~

~~(b) Thirty days after the special election, for the remaining period through the special election,~~

~~• report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group or business entity under penalty of perjury.~~

~~5. Every person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions shall list each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under penalty of perjury, 30 days after:~~

~~(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or~~

~~(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.~~

~~6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.~~

~~7. The reports required pursuant to this section must be filed with:~~

~~(a) If the question is submitted to the voters of one county, the county clerk of that county;~~

~~(b) If the question is submitted to the voters of one city, the city clerk of that city; or~~

~~(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.~~

~~8. If an expenditure is made on behalf of a group of questions, the reports must be itemized by question or petition. A person may mail or transmit the report to the appropriate filing officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the filing officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On the date that it was received by the filing officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.~~**] (Deleted by amendment.)**

Sec. 17. ~~[NRS 294A.360 is hereby amended to read as follows:~~

~~294A.360 1. Every candidate for city office at a primary city election or general city election shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year. The provisions of this subsection apply to the candidate:~~

~~(a) Beginning the year of the general city election for that office through the year immediately preceding the next general city election for that office; and~~

~~(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160.~~

~~2. [~~Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he or she is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

~~(a) Seven days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through 12 days before the primary city election;~~

~~(b) Seven days before the general city election for that office, for the period from 11 days before the primary city election through 12 days before the general city election; and~~

~~(c) July 15 of the year of the general city election for that office, for the period from 11 days before the general city election through the June 30 of that year.~~

~~3.~~**]** ~~Every candidate for city office at a primary city election or general city election~~ **[**~~, if the general city election for the office for which he or she is a candidate is held on or after July 1 and before the January 1 immediately following that July 1,~~**]** ~~shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:~~

~~(a) Seven days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through 12 days before the primary city election; and~~

~~(b) Seven days before the general city election for that office, for the period from 11 days before the primary city election through 12 days before the general city election.~~

~~**[**4.**]** **3.** Except as otherwise provided in subsection ~~**[**5,**]** **4,** every candidate for city office at a special election shall so file those reports:~~

~~(a) Seven days before the special election, for the period from the candidate's nomination through 12 days before the special election; and~~

~~(b) Thirty days after the special election, for the remaining period through the special election.~~

~~[~~5.~~]~~ ~~4. Every candidate for city office at a special election to determine whether a public officer will be recalled shall so file those reports 30 days after:~~

~~(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or~~

~~(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.~~**]** **(Deleted by amendment.)**

Sec. 18. ~~[NRS 266.405 is hereby amended to read as follows:~~

~~266.405 1. In addition to the mayor and city council, there must be in each city of population category one or two a city clerk, a city treasurer, or if those offices are combined pursuant to subsection 4, a city clerk and treasurer, a municipal judge and a city attorney. The offices of city clerk, city treasurer, municipal judge and city attorney may be either elective or appointive offices, as provided by city ordinance. Except as otherwise provided in this subsection~~ **,** **[**~~and unless the terms of those elected officers are extended by an ordinance adopted pursuant to NRS 293C.115,~~**]** ~~the elected officers shall hold their respective offices for 4 years and until their successors are elected and qualified. The cities of population category three may by ordinance provide that the mayor and city council members must be elected and shall hold office for 2 years~~ **.** **[**~~unless the terms of office of the mayor and city council members are extended by an ordinance adopted pursuant to NRS 293C.115.~~**]**

~~2. In each city of population category one or two, in which the officers are appointed pursuant to ordinance, the mayor, with the advice and consent of the city council, shall appoint all of the officers.~~

~~3. In cities of population category three, the mayor, with the advice and consent of the city council, may appoint any officers as may be deemed expedient.~~

~~4. The city council may provide by ordinance for the office of city clerk and the office of city treasurer to be combined into the office of city clerk and treasurer.~~**]** **(Deleted by amendment.)**

Sec. 19. ~~[NRS 267.110 is hereby amended to read as follows:~~

~~267.110 1. Any city having adopted a charter pursuant to the provisions of NRS 267.010 to 267.140, inclusive, has pursuant to the charter:~~

~~(a) All of the powers enumerated in the general laws of the State for the incorporation of cities.~~

~~(b) Such other powers necessary and not in conflict with the Constitution and laws of the State of Nevada to carry out the commission form of government.~~

~~2. The charter, when submitted, must:~~

~~(a) Fix the number of commissioners, their terms of office and their duties and compensation.~~

~~(b) Provide for all necessary appointive and elective officers for the form of government therein provided, and fix their salaries and emoluments, duties and powers.~~

~~(c) Fix, in accordance with the provisions of NRS 293C.140 and 293C.175 or with the provisions of NRS 293C.145~~ **~~,~~** **~~[~~**~~, or with the provisions of paragraph (a) of subsection 1 of NRS 293C.115,~~**~~]~~** ~~the time for the first and subsequent elections for all elective officers. After the first election and the qualification of the officers who were elected, the old officers and all boards or offices and their emoluments must be abolished.~~**~~]~~** **(Deleted by amendment.)**

Sec. 20. Section 4 of the charter of Boulder City is hereby amended to read as follows:

Section 4. Number; selection ***;*** **~~[~~**~~and term;~~**~~]~~** recall.

1. **~~[~~**~~The~~**~~]~~** ***Except as otherwise provided in section 96, the*** City Council shall have four Council Members and a Mayor elected from the City at large in the manner provided in Article IX ~~*[.]*~~ , for terms of four years and until their successors have been elected and have taken office as provided in section 16 **.** **~~[~~**~~, subject to recall as provided in section 111.5.~~**~~]~~** No Council Member shall represent any particular constituency or district of the City, and each Council Member shall represent the entire City. (Amd. 2; 6-4-1991; Add. 17; Amd. 1; 11-5-1996)

2. (Repealed by Amd. 1; 6-4-1991)

3. The Council Members and the Mayor are subject to recall as provided in section 111.5.

Sec. 21. Section 96 of the charter of Boulder City is hereby amended to read as follows:

Section 96. Conduct of **~~[~~**~~city~~**~~]~~** ***municipal*** elections.

1. All **~~[~~**~~city~~**~~]~~** ***municipal*** elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the City Council which are consistent with law and this Charter. (1959 Charter)

2. All ~~*[The two Council Members elected at the general municipal election held in June 2009 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 4.*~~

~~*3. On the first Tuesday after the first Monday in June 2011, there must be elected by the qualified voters in the City, at a general municipal election to be held for that purpose, a Mayor and two Council Members, all of whom hold office until their successors have been elected and qualified pursuant to subsection 5.*~~

~~*4. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose,*~~

~~*two Council Members, both of whom hold office for a period of 4 years and until their successors have been elected and qualified.*~~

~~*5. On the first Tuesday after the first Monday in November 2016, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and two Council Members, all of whom hold office for a period of 4 years until their successors have been elected and qualified.*~~

~~*6. Except as otherwise provided in subsections 2 and 3, all]*~~ full terms of office in the City Council are ~~[four]~~ ***4*** years, and Council Members must be elected at large without regard to precinct residency. ~~[Two]~~ ***Except as otherwise provided in subsection 8, two*** full-term Council members and the Mayor are to be elected in each year immediately preceding a federal presidential election, and two full-term Council members are to be elected in each year immediately following a federal presidential election. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant full-term positions. (Add. 17; Amd. 1; 11-5-1996)

~~[~~(a)~~]~~ ~~*[7.]*~~ ***3.*** In the event one or more ~~[two]~~ ***2***-year term positions on the Council will be available at the time of a municipal election as provided in section 12, candidates must file specifically for such position(s). Candidates receiving the greatest respective number of votes must be declared elected to the respective available ~~[two]~~ ***2***-year positions. (Add. 15; Amd. 2; 6-4-1991)

~~[3.] [8. A] [city]~~

4. Except as otherwise provided in subsection 8, a primary ***municipal*** election must be held on the first Tuesday after the first Monday in April of each odd-numbered year and a city general election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.

~~[~~(a)~~]~~ ~~*[date fixed by the election laws of this State for statewide elections.*~~

~~*9.]*~~ ***5.*** A primary ***municipal*** election must not be held if no more than double the number of Council Members to be elected file as candidates. A primary ***municipal*** election must not be held for the office of Mayor if no more than two candidates file for that position. The primary ***municipal*** election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council Members to be elected. (Add. 17; Amd. 1; 11-5-1996)

~~[~~(b)~~]~~ ~~*[10.]*~~ ***6.*** If, in the primary ~~[city]~~ ***municipal*** election, a candidate receives votes equal to a majority of voters casting ballots in that election, he or she shall be considered elected to one of the vacancies and his or her name shall not be placed on the ballot for the general ~~[city]~~ ***municipal*** election. (Add. 10; Amd. 7; 6-2-1981)

~~[~~(c)~~]~~ ~~*[11.]*~~ ***7.*** In each primary and general ***municipal*** election, voters ~~[shall be]~~ ***are*** entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the ~~[city]~~ ***municipal*** elections. (Add. 11; Amd. 5; 6-7-1983)

~~[~~4.~~]~~ ~~*[12.]*~~ ***8. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.***

9. If the City Council adopts an ordinance pursuant to subsection 8, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

10. If the City Council adopts an ordinance pursuant to subsection 8, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.

11. The conduct of all municipal elections ~~[~~shall~~]~~ ***must*** be under the control of the City Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the City Council to provide for supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud. (Add. 24; Amd. 1; 6-3-2003)

Sec. 22. Section 111.5 of the charter of Boulder City is hereby amended to read as follows:

Section 111.5. Recall of ***the Mayor and*** Council Members.

As provided by the general laws of this State, ***the Mayor and*** every member of the City Council ~~[~~is~~]~~ ***are*** subject to recall from office. (Add. 5; Amd. 5; 6-8-1971; Add. 24; Amd. 1; 6-3-2003)

Sec. 23. ~~[The Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, at page 55, is hereby amended by adding thereto a new section to be designated as section 5.120, immediately following section 5.110, to read as follows:~~

~~***Sec. 5.120 Continuation of certain officers.***~~

~~***The Mayor and two Council Members elected at the general municipal election held on the first Tuesday after the first Monday in June 2009 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 3 of section 5.010.]***~~ **(Deleted by amendment.)**

Sec. 24. Section 2.010 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as last amended by chapter 98, Statutes of Nevada 1977, at page 202, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of five Council Members, including the Mayor.

2. The Mayor and each Council Member ~~[~~shall~~]~~ ***must*** be:

(a) Bona fide residents of the City for at least 2 years immediately prior to their election.

(b) Qualified electors within the City.

3. All Council Members, including the Mayor, [~~shall~~] ***must*** be voted upon by the registered voters of the City at large and shall serve for terms of 4 years except as ***otherwise*** provided in [~~subsection 3 of~~] section [~~sections~~] 5.010 . [~~and 5.120.~~]

4. The Mayor and Council Members shall receive a salary in an amount fixed by the City Council. Such salary [~~shall~~] ***must*** not be increased or diminished during the term of the recipient.

Sec. 25. Section 5.010 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as amended by chapter 71, Statutes of Nevada 1975, at page 82, is hereby amended to read as follows:

Sec. 5.010 Municipal [~~General municipal~~] elections.

1. ***Except as otherwise provided in subsection 2:***

(a) On the [~~1st~~] ***first*** Tuesday after the [~~1st~~] ***first*** Monday in June 1973, there [~~shall~~] ***must*** be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and one Council Member who shall hold office for a period of 4 years and until their successors have been elected and qualified.

[~~2.~~] ***(b)*** On the [~~1st~~] ***first*** Tuesday after the [~~1st~~] ***first*** Monday in June 1975, and at each successive interval of 4 years thereafter, [~~2011,~~] there [~~shall~~] ***must*** be elected by the qualified voters of the City **,** at a general ***municipal*** election to be held for that purpose **,** two Council Members [~~,~~] who shall hold office [~~for a period of 4 years and~~] until their successors have been elected and qualified .

[~~3.~~] ***(c)*** On the [~~1st~~] ***first*** Tuesday after the [~~1st~~] ***first*** Monday in June 1975, there shall be elected by the qualified voters of the City at a general election to be held for that purpose one Council Member who shall hold office for a period of 2 years and until his or her successor has been elected and qualified.

[~~4.~~] [~~pursuant to subsection 3.~~

~~2. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and two Council Members who shall hold office until their successors have been elected and qualified.~~

~~3.~~] ***(d)*** On the [~~1st~~] ***first*** Tuesday after the [~~1st~~] ***first*** Monday in June 1977, [~~November 2016,~~] and at each successive interval of 4 years, there [~~shall~~] ***must*** be elected by the qualified voters of the City, at a general ***municipal*** election to be held for that purpose, a Mayor and two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

4. If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.

Sec. 26. ~~[The Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, at page 474, is hereby amended by adding thereto a new section to be designated as section 5.110, immediately following section 5.100, to read as follows:~~

~~***Sec. 5.110 Continuation of certain officers.***~~

~~***The two members of the City Council elected at the general municipal election held on the first Tuesday after the first Monday in June 2009 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.]***~~ **(Deleted by amendment.)**

Sec. 27. Section 2.010 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as last amended by chapter 51, Statutes of Nevada 2001, at page 449, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four members and the Mayor.

2. The members of the City Council must be:

(a) Bona fide residents of the City for at least 2 years before their election.

(b) Qualified electors within the City.

3. All members of the City Council must be voted upon by the registered voters of the City at large and ***, except as otherwise provided in*** ~~*[sections]*~~ ***section 5.010*** **,** ~~*[and 5.110,]*~~ shall serve for terms of 4 years.

4. The members of the City Council must receive a salary in an amount fixed by the City Council.

Sec. 28. Section 5.010 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as amended by chapter 51, Statutes of Nevada 2001, at page 463, is hereby amended to read as follows:

Sec. 5.010 Municipal ~~*[General municipal]*~~ elections.

1. ***Except as otherwise provided in subsection 2:***

(a) On the first Tuesday after the first Monday in June 1975, and at each successive interval of 4 years, ~~*[2011,]*~~ there must be elected by the qualified voters of the City, at a general ***municipal*** election to be held for that purpose, a Mayor and two members of the City Council, who shall hold office for a period of 4 years and until their successors have been elected and qualified . ~~*[pursuant to subsection 3.*~~

~~2.~~ ***(b)*** On the first Tuesday after the first Monday in June 1973, ~~*[November 2014,]*~~ and at each successive interval of 4 years thereafter, there

must be elected by the qualified voters of the City, at a general ***municipal*** election to be held for that purpose, two members of the City Council, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~*[3. On the first Tuesday after the first Monday in November 2016, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and two members of the City Council who shall hold office for a period of 4 years and until their successors have been elected and qualified.]*~~

2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

4. If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.

Sec. 29. ~~[The Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 402, is hereby amended by adding thereto a new section to be designated as section 5.120, immediately following section 5.110, to read as follows:~~

~~*Sec. 5.120 Continuation of certain officers.*~~

~~*1. The Mayor and the Council Members elected at the general municipal election held in June 2009 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.020.*~~

~~*2. The Municipal Judge for Department 1 elected at the general municipal election held in June 2007 shall continue in office until the election, and qualification thereafter, of his or her successor pursuant to subsection 3 of section 5.020.*~~

~~*3. The Municipal Judge for Department 2 elected at the general municipal election held in June 2009 shall continue in office until the election, and qualification thereafter, of his or her successor pursuant to subsection 5 of section 5.020.*~~

~~*4. The Municipal Judge for Department 3 elected at the general municipal election held in June 2011 shall continue in office until the election, and qualification thereafter, of his or her successor pursuant to subsection 6 of section 5.020.]*~~ **(Deleted by amendment.)**

Sec. 30. Section 2.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 596, Statutes of Nevada 1995, at page 2206, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Council Members and the Mayor.

2. The Mayor must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the City.

3. Each Council Member must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the ward which he or she represents.

(c) A resident of the ward which he or she represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, except that changes in ward boundaries pursuant to the provisions of section 1.040 do not affect the right of any elected Council Member to continue in office for the term for which he or she was elected.

4. All Council Members, including the Mayor, must be voted upon by the registered voters of the City at large and ***, except as otherwise provided in*** ~~*[sections]*~~ ***section 5.020 ,*** ~~*[and 5.120,]*~~ shall serve for terms of 4 years.

5. The Mayor and Council Members are entitled to receive a salary in an amount fixed by the City Council. The City Council shall not adopt an ordinance which increases or decreases the salary of the Mayor or the Council Members during the term for which they have been elected or appointed.

Sec. 31. Section 4.015 of the Charter of the City of Henderson, being chapter 231, Statutes of Nevada 1991, as last amended by chapter 209, Statutes of Nevada 2001, at page 970, is hereby amended to read as follows:

Sec. 4.015 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by, the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may from time to time establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each.

3. At the first municipal primary or general election which follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for a term of not more than 5 years, as determined by the City Council, in order that, as nearly as practicable, one-third of the number of Municipal Judges be elected every 2 years.

4. ~~[~~Each~~]~~ ***Except as otherwise provided in subsection 3, each*** Municipal Judge must be voted upon by the registered voters of the City at large ~~[.]~~ ***and, except as otherwise provided in*** ~~*[sections]*~~ ***section 5.020 ,*** ~~*[and 5.120,]*~~ ***shall serve for a term of 6 years.***

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic number, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

6. The Senior Municipal Judge is selected by a majority of the sitting judges for a term of 2 years. If no Municipal Judge receives a majority of the votes, the Senior Municipal Judge is the Municipal Judge who has continuously served as a Municipal Judge for the longest period.

Sec. 32. Section 5.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary ***municipal*** election.

1. ~~[A]~~ ***Except as otherwise provided in section 5.020, a*** primary ***municipal*** election must be held on the Tuesday after the first Monday in April of each odd-numbered year, ~~*[date fixed by the election laws of this State for statewide elections,]*~~ at which time there must be nominated candidates for offices to be voted for at the next general municipal election.

2. A candidate for any office to be voted for at any primary municipal election must file a declaration of candidacy as provided by the election laws of this State.

3. All candidates for elective office must be voted upon by the registered voters of the City at large.

4. If in the primary election no candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general election. If in the primary election, regardless of the number of candidates for an office, one candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, he or she must be declared elected and no general election need be held for that office.

Sec. 33. Section 5.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 209, Statutes of Nevada 2001, at page 971, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. ***Except as otherwise provided in subsection 2:***

(a) A general ***municipal*** election must be held in the City on the first Tuesday after the first Monday in June of each odd-numbered year and on the same day every 2 years thereafter, at which time the registered voters of the City shall elect city officers to fill the available elective positions.

~~[2.]~~ ***(b)*** All candidates for the office of Mayor, Council Member and Municipal Judge must be voted upon by the registered voters of the City at

large. The term of office for members of the City Council and the Mayor is 4 years. Except as otherwise provided in subsection 3 of section 4.015 of this Charter, the term of office for a Municipal Judge is 6 years.

~~[3.] [On the first Tuesday after the first Monday in June 2011, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose:~~

~~(a) Three Council Members who shall hold office until their successors have been elected and qualified pursuant to subsection 4.~~

~~(b) A Municipal Judge for Department 3 who shall hold office until his or her successor has been elected and qualified pursuant to subsection 6.~~

~~2. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election held for that purpose, a Mayor and Council Members who shall hold office for a period of 4 years until their successors have been elected and qualified.~~

~~3. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 6 years, there must be elected by the qualified voters of the City, at a general municipal election held for that purpose, a Municipal Judge for Department 1 who shall hold office for a period of 6 years until his or her successor has been elected and qualified.~~

~~4. On the first Tuesday after the first Monday in November 2016, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election held for that purpose, three Council Members who shall hold office for a period of 4 years until their successors have been elected and qualified.~~

~~5.]~~ ***(c)*** On the Tuesday after the first Monday in June 2001 **,** ~~[November 2016,]~~ and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 1 ~~[2]~~ who will hold office until his or her successor has been elected and qualified.

~~[4.]~~ ~~[6.]~~ ***(d)*** On the Tuesday after the first Monday in ~~[June 2003]~~ ***November 2018,*** and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 2 ~~[3]~~ who will hold office until his or her successor has been elected and qualified.

~~[5.]~~ ***(e)*** On the Tuesday after the first Monday in June 2005 **,** and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 3 who will hold office until his or her successor has been elected and qualified.

2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

4. If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.

Sec. 34. ~~[The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 5.140, immediately following section 5.130, to read as follows:~~

~~*Sec. 5.140 Continuation of certain officers.*~~

~~*1. The Council Members from even-numbered wards elected at the general municipal election held in June 2009 shall continue in office until the general municipal election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.020.*~~

~~*2. The Municipal Judges for Departments 1, 4 and 6 elected at the general municipal election held in June 2009 shall continue in office until the general municipal election, and qualification thereafter, of their successors pursuant to subsection 3 of section 5.020.]*~~ **(Deleted by amendment.)**

Sec. 35. Section 1.140 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 6, Statutes of Nevada 2001, at page 10, is hereby amended to read as follows:

Sec. 1.140 Elective offices.

1. The elective officers of the City consist of:

(a) A Mayor.

(b) One Council Member from each ward.

(c) Municipal Judges.

2. ~~[The]~~ ***Except as otherwise provided in*** ~~*[sections]*~~ ***section 5.020*** ***,*** ~~*[and 5.140,]*~~ ***the*** terms of office of the Mayor and Council Members are 4 years.

3. Except as otherwise provided in subsection 3 of section 4.010 ~~[of this Charter,]~~ ***and*** ~~*[sections]*~~ ***section 5.020*** ***,*** ~~*[and 5.140,]*~~ the term of office of a Municipal Judge is 6 years.

Sec. 36. Section 1.160 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 338, Statutes of Nevada 2007, at page 1533, is hereby amended to read as follows:

Sec. 1.160 Elective offices: Vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the office of Mayor, Council Member or Municipal Judge must be filled by the majority vote of the entire City Council within 30 days after the occurrence of that vacancy. A person may be selected to fill a prospective vacancy before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the

Council pursuant to this section. The appointee must have the same qualifications as are required of the elective official, including, without limitation, any applicable residency requirement.

2. ~~[No]~~ ***Except as otherwise provided in section 5.010, no*** appointment extends beyond the first regular meeting of the City Council that follows the next general municipal election, at that election the office must be filled for the remainder of the unexpired term, or beyond the first regular meeting of the City Council after the Tuesday after the first Monday in the next succeeding June ~~*[November]*~~ in an odd-numbered ~~*[even-numbered]*~~ year, if no general municipal election is held in that year.

Sec. 37. Section 4.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 338, Statutes of Nevada 2007, at page 1536, is hereby amended to read as follows:

Sec. 4.020 Municipal Court: Qualifications of Municipal Judges; salary; Master Judge; departments; Alternate Judges.

1. Each Municipal Judge shall devote his or her full time to the duties of his or her office and must be:

(a) A duly licensed member, in good standing, of the State Bar of Nevada, but this qualification does not apply to any Municipal Judge who is an incumbent when this Charter becomes effective as long as he or she continues to serve as such in uninterrupted terms.

(b) A qualified elector who has resided within the territory which is established by the boundaries of the City for a period of not less than 30 days immediately before the last day for filing a declaration of candidacy for the department for which he or she is a candidate.

(c) Voted upon by the registered voters of the City at large.

2. The salary of the Municipal Judges must be fixed by ordinance and be uniform for all departments of the Municipal Court. The salary may be increased during the terms for which the Judges are elected or appointed.

3. The Municipal Judges of the six departments shall elect a Master Judge from among their number. The Master Judge shall hold office for a term of 2 years commencing on July 1 of each ~~[odd-numbered year.]~~ ***year of a general municipal election.*** If a vacancy occurs in the position of Master Judge, the Municipal Judges shall elect a replacement for the remainder of the unexpired term. If two or more Municipal Judges receive an equal number of votes for the position of Master Judge, the candidates who have received the tie votes shall resolve the tie vote by the drawing of lots. The Master Judge:

(a) Shall establish and enforce administrative regulations for governing the affairs of the Municipal Court.

(b) Is responsible for setting trial dates and other matters which pertain to the Court calendar.

(c) Shall perform such other Court administrative duties as may be required by the City Council.

4. Alternate Judges in sufficient numbers may be appointed annually by the Mayor, each of whom:

(a) Must be a duly licensed member, in good standing, of the State Bar of Nevada and have such other qualifications as are prescribed by ordinance.

(b) Has all of the powers and jurisdiction of a Municipal Judge while acting as such.

(c) Is entitled to such compensation as may be fixed by the City Council.

5. Any Municipal Judge, other than an Alternate Judge, automatically forfeits his or her office if he or she ceases to be a resident of the City.

Sec. 38. Section 5.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary municipal elections. ***Except as otherwise provided in section 5.020:***

1. On the Tuesday after the first Monday in April 2001, and at each successive interval of 4 years, a ~~*[A]*~~ primary municipal election must be held in the City at which time candidates for half of the offices of Council Member and for Municipal Judge, Department 2, must be nominated.

2. On the Tuesday after the first Monday in April 2003, and at each successive interval of 4 years, a primary municipal election must be held in the City at which time candidates for Mayor, for the other half of the offices of Council Member and for Municipal Judge, Department 1, must be nominated.

3. ~~*[on the date fixed by the election laws of this State for statewide elections.*~~

~~*2. In the primary municipal election:*~~

~~*(a)]*~~ The candidates for Council Members who are to be nominated as provided in subsections 1 and 2 must be nominated and voted for separately according to the respective wards. The candidates from each even-numbered ward must be nominated as provided in subsection 1, and the candidates from each odd-numbered ward must be nominated as provided in subsection 2.

4. ~~*[(b)]*~~ If the City Council has established an additional department or departments of the Municipal Court pursuant to section 4.010 ~~[of this Charter,]~~ and, as a result, more than one office of Municipal Judge is to be filled at any election, the candidates for those offices must be nominated and voted upon separately according to the respective departments.

5. ~~*[3.]*~~ Each candidate for the municipal offices which are provided for in subsections 1, 2 and 4 ~~*[municipal office]*~~ must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be paid into the City Treasury.

6. ~~*[4.]*~~ If, in the primary ***municipal*** election, regardless of the number of candidates for an office, one candidate receives a majority of votes which are cast in that election for the office for which he or she is a candidate, he or she must be declared elected for the term which commences on the day of the first regular meeting of the City Council next succeeding the meeting at

which the canvass of the returns is made, and no general election need be held for that office. If, in the primary ***municipal*** election, no candidate receives a majority of votes which are cast in that election for the office for which he or she is a candidate, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general election.

Sec. 39. Section 5.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1415, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. ~~[A]~~ ~~*[On the first Tuesday after the first Monday in June 2011, there must be elected at a]*~~ ***Except as otherwise provided in subsection 2, a*** general municipal election must be held in the City on the Tuesday after the 1st Monday in June of each odd-numbered year and on the same day every 2 years thereafter, at which time there must be elected those officers whose offices are required to be filled by election in that year. ~~*[for that purpose:*~~

~~*(a) The Mayor and Council Members from odd-numbered wards who shall hold office until their successors have been elected and qualified pursuant to subsection 4.*~~

~~*(b) The Municipal Judges for Departments 2, 3 and 5 who shall hold office until their successors have been elected and qualified pursuant to subsection 5.]*~~

2. ~~*[On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected, at a general municipal election held for that purpose, the Council Members from even-numbered wards who shall hold office for a period of 4 years and until their successors have been elected and qualified.*~~

~~*3. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 6 years, there must be elected, at a general election to be held for that purpose, Municipal Judges for Departments 1, 4 and 6 who shall hold office for a period of 6 years and until their successors have been elected and qualified.*~~

~~*4. On the first Tuesday after the first Monday in November 2016, and at each successive interval of 4 years, there must be elected, at a general municipal election to be held for that purpose, the Mayor and Council Members from odd-numbered wards who shall hold office for a period of 4 years and until their successors have been elected and qualified.*~~

~~*5. On the first Tuesday after the first Monday in November 2018, and at each successive interval of 6 years, there must be elected, at a general municipal election to be held for that purpose, Municipal Judges for Departments 2, 3 and 5 who shall hold office for a period of 6 years and until their successors have been elected and qualified.*~~

~~*6.]*~~ ***The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for***

primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

4. If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.

5. All candidates for elective office, except the office of Council Member, must be voted upon by the registered voters of the City at large.

Sec. 40. ~~[The Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1210, is hereby amended by adding thereto a new section to be designated as section 5.100, immediately following section 5.090, to read as follows:~~

~~*Sec. 5.100 Continuation of certain officers.*~~

~~*1. The Mayor and two Council Members elected at the general municipal election held in June 2009 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.*~~

~~*2. The Municipal Judge for Department 2 elected at the general municipal election held in June 2009 shall continue in office until the election, and qualification thereafter, of his or her successor pursuant to subsection 3 of section 5.010.]*~~ **(Deleted by amendment.)**

Sec. 40.5. **The Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1210, is hereby amended by adding thereto a new section to be designated as section 5.025, immediately following section 5.020, to read as follows:**

Sec. 5.025 City Council authorized to choose dates for primary and general elections; dates to be in accordance with this Charter or chapter 293 of NRS; effect upon terms of serving city officials.

1. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

2. If the City Council adopts an ordinance pursuant to subsection 1, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal election and general municipal election.

3. If the City Council adopts an ordinance pursuant to subsection 1, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.

Sec. 41. Section 2.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Council Members and a Mayor.

2. The Mayor must be:

(a) A bona fide resident of the City for at least 6 months immediately preceding his or her election.

(b) A qualified elector within the City.

3. Each Council Member:

(a) Must be a qualified elector who has resided in the ward which he or she represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for his or her office.

(b) Must continue to live in the ward he or she represents, except that changes in ward boundaries made pursuant to section 1.045 **[**~~of this Charter~~**]** will not affect the right of any elected Council Member to continue in office for the term for which he or she was elected.

4. At the time of filing, if so required by an ordinance duly enacted, candidates for the office of Mayor and Council Member shall produce evidence in satisfaction of any or all of the qualifications provided in subsection 2 or 3, whichever is applicable.

5. Each Council Member must be voted upon only by the registered voters of the ward that he or she seeks to represent, and ***except as otherwise provided in sections 5.010 and*** ~~*[5.100,]*~~ ***5.025,*** his or her term of office is 4 years.

6. The Mayor must be voted upon by the registered voters of the City at large, and ***except as otherwise provided in sections 5.010 and*** ~~*[5.100,]*~~ ***5.025,*** his or her term of office is 4 years.

7. The Mayor and Council Members are entitled to receive a salary in an amount fixed by the City Council.

Sec. 42. Section 4.005 of the Charter of the City of North Las Vegas, being chapter 215, Statutes of Nevada 1997, as amended by chapter 73, Statutes of Nevada 2003, at page 484, is hereby amended to read as follows:

Sec. 4.005 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may, from time to time, by ordinance, establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each additional department.

3. At the first municipal primary or municipal general election that follows the appointment of an additional Municipal Judge to a newly created

department of the Municipal Court, the successor to that Municipal Judge must be elected for an initial term of not more than 6 years, as determined by the City Council, in order that, as nearly as practicable, one-third of the number of Municipal Judges be elected every 2 years.

4. Except as otherwise provided by the ordinance establishing an additional department, each Municipal Judge must be voted upon by the registered voters of the City at large and ***, except as otherwise provided in sections 5.010 and*** ~~*[5.100,]*~~ ***5.025,*** holds office for a period of 6 years and until his or her successor has been elected and qualified.

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic numeral, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

Sec. 43. Section 5.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:

Sec. 5.010 General municipal elections.

1. ***Except as otherwise provided in section 5.025:***

(a) On the Tuesday after the first Monday in June 1977, and at each successive interval of 4 years thereafter, there must be elected, at a general election to be held for that purpose, a Mayor and two Council Members who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~**[**2.**]**~~ ***(b)*** On the Tuesday after the first Monday in June 1975, and at each successive interval of 4 years thereafter, ~~*[2011,]*~~ there must be elected, at a general ***municipal*** election to be held for that purpose , two ~~*[:*~~

~~*(a) Two]*~~ Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified .

~~**[**3.**]**~~ ~~*[pursuant to subsection 4.*~~

~~*(b) A Municipal Judge for Department 1 who shall hold office until his or her successor has been elected and qualified pursuant to subsection 5.*~~

~~*2. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected, at a general municipal election to be held for that purpose, a Mayor and two Council Members who shall hold office until their successors have been elected and qualified.*~~

~~*3. On the first Tuesday after the first Monday in November 2016, and at each successive interval of 6 years, there must be elected, at a general municipal election to be held for that purpose, a Municipal Judge for Department 2 who shall hold office until his or her successor has been elected and qualified.*~~

~~*4. On the first Tuesday after the first Monday in November 2016, and at each successive interval of 4 years, there must be elected, at a general municipal election to be held for that purpose, two Council Members who shall hold office until their successors have been elected and qualified.*~~

~~*5. On the first Tuesday after the first Monday in November 2018, and at each successive interval of 6 years, there must be elected, at a general municipal election to be held for that purpose, a Municipal Judge for Department 1 who shall hold office until his or her successor has been elected and qualified.*~~

~~*6.*~~ ***2.*** In ~~[~~such~~]~~ a general ***municipal*** election:

(a) A candidate for the office of City Council Member must be elected only by the registered voters of the ward that he or she seeks to represent.

(b) Candidates for all other elective offices must be elected by the registered voters of the City at large.

Sec. 44. Section 5.020 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 9, Statutes of Nevada 2009, at page 17, is hereby amended to read as follows:

Sec. 5.020 Primary municipal elections; declaration of candidacy.

1. The City Council shall provide by ordinance for candidates for elective office to declare their candidacy and file the necessary documents. The seats for City Council Members must be designated by the numbers one through four, which numbers must correspond with the wards the candidates for City Council Members will seek to represent. A candidate for the office of City Council Member shall include in his or her declaration of candidacy the number of the ward which he or she seeks to represent. Each candidate for City Council must be designated as a candidate for the City Council seat that corresponds with the ward that he or she seeks to represent.

2. ~~[~~A~~]~~ ***Except as otherwise provided in section 5.025, a*** primary ***municipal*** election must be held on the Tuesday following the first Monday in April preceding the general ***municipal*** election, ~~*[date fixed by the election laws of this State for statewide elections,]*~~ at which time there must be nominated candidates for offices to be voted for at the next general ***municipal*** election. In the primary ***municipal*** election:

(a) A candidate for the office of City Council Member must be voted upon only by the registered voters of the ward that he or she seeks to represent.

(b) Candidates for all other elective offices must be voted upon by the registered voters of the City at large.

3. Except as otherwise provided in subsection 4, after the primary ***municipal*** election, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general ***municipal*** election.

4. If, regardless of the number of candidates for an office, one candidate receives a majority of the total votes cast for that office in the primary ***municipal*** election, he or she must be declared elected to that office and no general ***municipal*** election need be held for that office.

Sec. 45. ~~[The Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, at page 901, is hereby amended by adding thereto a new section to be designated as section 5.110, immediately following section 5.100, to read as follows:~~

~~*Sec. 5.110 Continuation of certain officers.*~~

~~*The two Council Members elected at the general municipal election held in June 2009 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.]*~~ **(Deleted by amendment.)**

Sec. 46. Section 2.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as last amended by chapter 98, Statutes of Nevada 1977, at page 213, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Council Members.

2. The Council Members ~~[shall]~~ ***must*** be:

(a) Bona fide residents of the City for at least 6 months immediately preceding their election.

(b) Qualified electors in the City.

3. All Council Members ~~[shall]~~ ***must*** be voted upon by the registered voters of the City at large and ***, except as otherwise provided in*** ~~*[sections]*~~ ***section 5.010*** ***,*** ~~*[and 5.110,]*~~ shall serve for terms of 4 years.

4. The Council Members shall receive a salary in an amount fixed by the City Council.

Sec. 47. Section 5.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, at page 912, is hereby amended to read as follows:

Sec. 5.010 Municipal ~~*[General municipal]*~~ elections.

1. ***Except as otherwise provided in subsection 2:***

(a) On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in June 1975, and at each successive interval of 4 years, ~~*[2011]*~~ there ~~[shall]~~ ***must*** be elected by the qualified voters of the City ***,*** at a general ***municipal*** election to be held for that purpose ***,*** a Mayor and two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified. ~~*[pursuant to subsection 3.*~~

~~2.]~~ ***(b)*** On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in June 1977, ~~*[November 2014,]*~~ and at each successive interval of 4 years ~~*[,]*~~ thereafter, there ~~[shall]~~ ***must*** be elected by the qualified voters of the City ***,*** at a general ***municipal*** election to be held for that purpose ***,*** two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~*[3. On the first Tuesday after the first Monday in November 2016, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.]*~~

2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary

elections and general elections pursuant to the provisions of chapter 293 of NRS.

3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

4. If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.

Sec. 48. ~~[Notwithstanding any other provision of law to the contrary, if a city incorporated pursuant to general law holds a general city election in:~~

~~1. June 2011, the elective city officers who are elected at such general city election shall continue in office until the election, and qualification thereafter, of their successors in the general city election to be held on the first Tuesday after the first Monday in November 2014.~~

~~2. June 2013, the elective city officers who are elected at such general city election shall continue in office until the election, and qualification thereafter, of their successors in the general city election to be held on the first Tuesday after the first Monday in November 2016.]~~ **(Deleted by amendment.)**

Sec. 49. ~~[Notwithstanding any other provision of law to the contrary, if the term of any elective city officer whose term of office expires in 2013, 2015 or 2017 is not otherwise extended or shortened pursuant to sections 1 to 48, inclusive, of this act, the person or entity designated by law to fill vacancies that occur on the city council of the city shall appoint the incumbent elective city officer to serve as city council member, mayor, municipal judge or other elective city officer, as applicable, in that office until his or her successor is elected and qualified at the general election in 2014, 2016 or 2018, as applicable, if that person is willing to serve in that capacity. If the person is not willing to serve in that capacity, the position must be filled in the same manner as if a vacancy occurred in the position.]~~ **(Deleted by amendment.)**

Sec. 50. ~~[1.]~~ This ~~[section and sections 20 to 49, inclusive, of this]~~ act ~~[become]~~ **becomes** effective upon passage and approval.

~~[2. Sections 1 to 12, inclusive, 18 and 19 of this act become effective on July 1, 2013.~~

~~3. Sections 13 to 17, inclusive, of this act become effective on January 16, 2014.]~~

Assemblywomen Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 182.

Bill read second time.

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

Amendment No. 133.

AN ACT relating to inland ports; authorizing the creation of inland ports and inland port authorities under certain circumstances; requiring the Commission on Economic Development to develop a State Plan for Inland Ports; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 10-13 of this bill authorize, upon approval by the Commission on Economic Development, the creation of an inland port and an inland port authority by one or more boards of county commissioners of counties or one or more governing bodies of incorporated cities, or both. **Section 14** of this bill sets forth the membership of a board of directors of an inland port authority.

Sections 19-27 of this bill set forth powers and duties of an inland port authority.

Section 31 of this bill requires the Commission on Economic Development to: (1) develop a State Plan for Inland Ports; and (2) set forth the requirements for the creation of an inland port.

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

Section 1. Title 22 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 30, inclusive, of this act.

Sec. 2. ***This chapter may be known and cited as the Inland Port Authority Act.***

Sec. 3. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Authority" means an inland port authority created pursuant to this chapter.***

Sec. 5. ***"Board" means the board of directors of an authority.***

Sec. 6. ***"Commission" means the Commission on Economic Development created by NRS 231.030.***

Sec. 7. ***"Inland port" means an area located away from traditional borders but having direct access to highway, railway and air transport facilities and, if applicable, intermodal facilities.***

Sec. 8. ***"Participating entity" means the board of county commissioners of a county or the governing body of an incorporated city.***

Sec. 9. ***The Legislature hereby finds and declares that the creation of an inland port:***

1. Is essential to:

(a) Develop and diversify the economy of the State;

(b) Provide employment opportunities for Nevadans; and

(c) Develop and expand transportation and commerce in this State.

2. Will facilitate commerce and economic development in this State through:

(a) Strategic investment in multimodal transportation assets; and

(b) Comprehensive planning, development, management and operation of facilities and supporting infrastructure for transportation, commercial processing and domestic and international trade.

Sec. 10. *1. Subject to the requirements set forth in this section and sections 11, 12 and 13 of this act, an inland port may be created only in a contiguous area that:*

(a) Includes ~~*[:]*~~ ***at least two of the following:***

(1) A municipally owned airport with a runway of at least ~~*[5,500]*~~ ***4,500 feet*** *.* ~~*[;]*~~

(2) A portion of a highway that is part of the National Highway System ***.*** ~~*[; and]*~~

(3) Operating assets of at least one Class I railroad as classified by the Surface Transportation Board.

(b) Does not include any residential property.

2. All areas within the boundaries of an inland port must be within the boundaries of the county or counties and incorporated city or cities, as applicable, of the one or more participating entities which apply to the Commission pursuant to section 11 of this act for the creation of the inland port.

Sec. 11. *1. One or more participating entities may apply to the Commission to create, operate and maintain an inland port and authority.*

2. A participating entity is eligible to apply to the Commission pursuant to subsection 1 if the county or incorporated city, as applicable, of the participating entity is located in whole or in part within the proposed boundaries of the inland port.

3. The Commission may approve the creation of an inland port and authority if the proposed inland port and authority conform to the State Plan for Inland Ports developed by the Commission pursuant to section 31 of this act.

Sec. 12. *1. If the Commission approves the creation of an inland port and authority pursuant to section 11 of this act, each participating entity shall hold at least two public hearings to discuss the creation of the inland port and authority.*

2. The participating entity shall give notice of the hearing by publication in a newspaper published in the county not later than 7 days before the hearing. The notice must include, without limitation:

(a) The date, time and place for the hearing;

(b) The boundaries of the proposed inland port, including, without limitation, a map of the proposed inland port; and

(c) The powers of the proposed authority.

Sec. 13. ***If a participating entity obtains approval of the Commission for the creation of an inland port and authority pursuant to section 11 of this act, the participating entity shall create the inland port and authority by ordinance. The ordinance must include, without limitation:***

1. A description of the boundaries of the inland port;

2. The location of the principal office of the authority;

3. The name of the inland port and authority; and

4. The number of directors who will compose the board of the authority pursuant to section 14 of this act.

Sec. 14. ***1. An authority must be governed by a board of directors with an odd-numbered membership set by the participating entity or entities. If there is more than one participating entity, the membership of the board of directors must be agreed to by all of the participating entities. The board of directors must be composed of:***

(a) ~~*[Three directors appointed by the most populous city that is a participating entity, if any;*~~

~~*(b)]*~~ ***One director appointed by each county that is a participating entity, if any;***

~~*[(c)]*~~ ***(b) One director appointed by each city that is a participating entity*** **,** ~~*[which is not described in paragraph (a),]*~~ ***if any;***

(c) If the authority includes a municipally owned airport described in subparagraph (1) of paragraph (a) of subsection 1 of section 10 of this act, one director appointed by:

(1) In a county whose population is 700,000 or more, the department of aviation of the county; or

(2) In a county whose population is less than 700,000, the governing body of the airport authority, if any, and if there is not an airport authority, by the governing body of the municipality which owns the airport; and

(d) Any other directors appointed in accordance with this section and as provided in an ordinance adopted by a participating entity pursuant to section 13 of this act.

2. Except as otherwise provided in this section, the directors described in subsection 1 must be appointed to terms of 4 years. The terms must be staggered in such a manner that, to the extent possible, the terms of one-half of the directors will expire every 2 years. The initial directors of the authority shall, at the first meeting of the board after their appointment, draw lots to determine which directors will initially serve terms of 2 years and which will serve terms of 4 years. A director may be reappointed.

3. A vacancy occurring during the term of a director must be filled by the appointing participating entity for the unexpired term as soon as is reasonably practicable.

Sec. 15. ***1. A director of a board must reside within the boundaries of the participating entity that appoints him or her.***

2. The following persons are not eligible to be appointed to a board:

(a) An elected official of any governmental entity.

(b) An employee of a participating entity.

Sec. 16. *1. A majority of the board constitutes a quorum for the transaction of business. If a vacancy exists on the board, a majority of directors serving on the board constitutes a quorum.*

2. The board shall annually elect a chair and vice chair. The vice chair presides in the absence of the chair.

3. The board may elect any other officers that it considers appropriate.

4. Each director serves without compensation and, while engaged in the business of the board, is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 17. *All meetings of an authority must be conducted in accordance with the provisions of chapter 241 of NRS.*

Sec. 18. *1. The governing body of a county, city or other governmental entity may convey title or rights and easements to any real property to an authority to effect any purpose of the authority.*

2. An authority may not exercise the power of eminent domain.

Sec. 19. *1. An authority may enter into an agreement that provides for the lease of rights-of-way, the granting of easements or the issuance of franchises, concessions, licenses or permits.*

2. Except as otherwise provided in ~~[subsection]~~ subsections 3 ~~[,]~~ and 4, with the consent of any county, city or other governmental entity, an authority may:

(a) Use streets, alleys, roads, highways and other public ways of the county, city or other governmental entity; and

(b) Relocate, raise, reroute, change the grade of or alter, at the expense of the authority:

(1) A street, alley, highway, road or railroad;

(2) Electric lines and facilities;

(3) Telegraph and telephone properties and facilities;

(4) Pipelines and facilities;

(5) Conduits and facilities; and

(6) Other property,

➥ *as necessary or useful in the construction, reconstruction, repair, maintenance and operation of the inland port.*

3. An authority may not alter:

(a) A highway that is part of the state highway system without the consent of the Department of Transportation.

(b) A railroad without the consent of the railroad company.

(c) A municipally owned airport.

4. If an inland port includes a municipally owned airport:

(a) An authority may not interfere with or exercise any control over commercial air transportation or commercial airlines that operate at the airport; and

(b) The airport authority, department of aviation or other existing governing body that owns or manages the airport retains such ownership or management control.

Sec. 20. ***An authority may not provide retail utility services or duplicate a service or facility of another governmental entity.***

Sec. 21. ***An authority may enter into an agreement with any person, including, without limitation, the United States or any other governmental entity, for any purpose of the authority.***

Sec. 22. ***An authority may act jointly with any other person, private or public, inside or outside this State or the United States, in the performance of any power or duty under this chapter.***

Sec. 23. ***An authority may purchase and pay premiums for insurance of any type in an amount considered necessary or advisable by the board.***

Sec. 24. ***An authority may market, advertise and promote the use of the inland port that the authority constructs, owns, operates, regulates or maintains.***

Sec. 25. ***An action against an authority must be brought in the county in which the principal office of the authority is located.***

Sec. 26. ***1. An authority shall establish and maintain rates, rentals, fees, charges or other compensation that is commercially reasonable and nondiscriminatory for the use of the facilities owned, constructed, operated, regulated or maintained by the authority.***

2. An authority may accept any public or private funding, grant or donation.

Sec. 27. ***Notwithstanding any provision of this chapter to the contrary, an authority may not develop, operate or maintain a toll road.***

Sec. 28. ***1. If a participating entity wishes to withdraw from an authority with regard to which there is more than one participating entity, the participating entity shall:***

(a) Adopt an ordinance providing for the withdrawal;

(b) Obtain approval from the board; and

(c) Give notice to the other participating entity or entities of its intent to withdraw,

↪ at least 6 months before the date on which the withdrawal would be effective.

2. Upon the withdrawal of a participating entity from the authority pursuant to subsection 1:

(a) The boundaries of the inland port must be adjusted by the other participating entity or entities to comply with the provisions of section 10 of this act; or

(b) The authority must be dissolved pursuant to subsection 3 as soon as practicable.

3. An authority is dissolved if:

(a) The dissolution is approved by the board;

(b) The governing body of each participating entity agrees to the dissolution;

(c) All debts and other liabilities of the authority have been paid or discharged, or adequate provision has been made for the payment of all debts and other liabilities;

(d) There are no suits pending against the authority, or adequate provision has been made for the satisfaction of any judgment, order or decree that may be entered against the authority in any pending suit; and

(e) The authority has a commitment from another governmental entity to assume jurisdiction of all property of the authority.

Sec. 29. ***At the request of the Commission, an authority shall report to the Commission on all issues and activities necessary for the administration of the authority as well as issues and activities pertaining to compliance with any rules or regulations set forth by the Commission for the creation, operation or maintenance of inland ports pursuant to section 31 of this act.***

Sec. 30. ***This chapter shall be liberally construed in order to facilitate economic development, trade and commerce in the State of Nevada.***

Sec. 31. Chapter 231 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commission on Economic Development shall:

(a) Develop a State Plan for Inland Ports. The Plan must include, without limitation:

(1) A comprehensive, long-term general plan for the physical development of inland ports which promotes, encourages and aids in the development of the economic interests of this State.

(2) Requirements for the creation of inland ports for the purposes of the Inland Port Authority Act which affect economic and industrial development.

(b) Promote, encourage and aid in the development of inland ports in this State.

(c) Identify sources of financing to assist local governments in developing or expanding inland ports.

(d) Encourage and assist local governments in planning and preparing projects for inland ports.

(e) Arrange by cooperative agreements with local governments to serve as the single agency in the State from which relocating or expanding businesses may obtain all required permits to operate in an inland port.

(f) Promote close cooperation between local governments, other public agencies and private persons that have an interest in creating, operating or maintaining inland ports in the State.

2. As used in this section, "inland port" has the meaning ascribed to it in section 7 of this act.

Sec. 32. NRS 231.020 is hereby amended to read as follows:

231.020 As used in NRS 231.020 to 231.139, inclusive, ***and section 31 of this act,*** unless the context otherwise requires, "motion pictures" includes feature films, movies made for broadcast on television and programs made for broadcast on television in episodes.

Sec. 33. This act becomes effective on July 1, 2011.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that upon return from the printer, Assembly Bill No. 182 be placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 242.

Bill read second time.

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

Amendment No. 389.

SUMMARY—Requires **a** quasi-public organization ~~[to submit annual report to Legislative Commission detailing disposition and use of]~~ **that receives** money ~~[conveyed to organization by]~~ **from a** state agency ~~[.]~~ **to make available certain information.** (BDR 31-67)

AN ACT relating to state financial administration; requiring each quasi-public organization that receives money from a state agency to ~~[submit annually to the Legislative Commission a report detailing the disposition and use of that money; requiring that each state agency which conveys money to a quasi-public organization include an entry in the budget of the state agency summarizing that conveyance; providing an exception;]~~ **make available certain information;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain governmental entities to report quarterly to the Interim Finance Committee regarding the taxes and fees that were legally due to be paid to the governmental entity, the taxes and fees that the governmental entity was actually able to collect, and the taxes and fees that the governmental entity failed to collect or otherwise did not collect. (Chapter 238, Statutes of Nevada 2009, pp. 970-71) ~~[Section 5 of this]~~ **This** bill requires each quasi-public organization that receives money from a state agency in the form of a donation, gift, grant or other conveyance to ~~[report to the Legislative Commission, on or before September 1 of each year for the immediately preceding fiscal year, concerning the disposition and use of the money so received. Section 6 of this bill requires that each state agency which conveys money to a quasi-public organization include an entry in the~~

~~budget of the state agency summarizing that conveyance. Section 7 of this bill exempts from the preceding requirements any money that is conveyed by a state agency to a quasi-public organization in the form of a direct appropriation, if the money so conveyed is required to be used for a specific purpose as a condition of the appropriation. Section 3 of this~~**] : (1) make certain information concerning the organization available on an Internet website; and (2) provide copies of certain reports to the Director of the Legislative Counsel Bureau. This** bill defines the term "quasi-public organization" for the purposes of the bill to mean: (1) a nonprofit organization that qualifies for tax-exempt status under 26 U.S.C. § 501(c); or (2) any entity that is created by or pursuant to an interlocal agreement.

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. ~~*[Except as otherwise provided in section 7 of this act:]*~~

1. ~~*[Each]*~~ ***If a quasi-public organization*** ~~*[that]*~~ ***receives money from a state agency in the form of a donation, gift, grant or other conveyance*** ~~*[shall, on or before September 1 of each year, file with the Legislative Commission a report that complies with the requirements of subsection 2.*~~

~~*2. Each report required to be filed pursuant to subsection 1 must:*~~

~~*(a) Be submitted on a document provided by]*~~ ***, the following information must be included on the Internet website of the quasi-public organization or, if the organization does not have a website, on the website of the state agency from which the organization received money in the form of a donation, gift, grant or other conveyance:***

(a) The names and terms of the persons on the board of directors or other governing body of the quasi-public organization;

(b) The most recent annual report of the quasi-public organization; and

(c) The mission statement or other statement of purpose of the quasi-public organization.

2. Except as otherwise provided in this subsection, if a quasi-public organization is required by law to submit a report to a state agency from which the organization receives money in the form of a donation, gift, grant or other conveyance, the organization shall also submit a copy of the report to the Director of the Legislative Counsel Bureau . ~~*[; and*~~

~~*(b) Include the following components:*~~

~~*(1) The name, address and phone number of each state agency from which the quasi-public organization received money during the immediately preceding fiscal year;*~~

~~*(2) The amount of money that the quasi-public organization received from each state agency during the immediately preceding fiscal year;*~~

~~*(3) For each separate donation, gift, grant or other conveyance of money that the quasi-public organization received from a state agency during the immediately preceding fiscal year, the specific purpose for which the quasi-public organization used that money during the immediately preceding fiscal year, including, without limitation:*~~

~~*(I) The particular goods, products and services that the quasi-public organization provided using the money so received;*~~

~~*(II) The nature and duration of any programs that the quasi-public organization conducted using the money so received;*~~

~~*(III) The number of persons and entities to whom the quasi-public organization provided goods, products and services using the money so received;*~~

~~*(IV) Whether the goods, products and services that the quasi-public organization provided using the money so received, or the programs that the quasi-public organization conducted using the money so received, were required to be provided or conducted, as applicable, pursuant to federal or state law;*~~

~~*(V) Whether the money so received was used by the quasi-public organization to replace or supplant funding available from other sources;*~~

~~*(VI) To the extent that the dissemination of such information is not prohibited by federal or state law, the identity of any persons who benefited from the money so received; and*~~

~~*(VII) The amount and nature of any administrative costs, including, without limitation, the salary and benefits of employees, that the quasi-public organization paid using the money so received; and*~~

~~*(4) Such other information as may be requested by]*~~ ***If the quasi-public organization prepares a summary annual report for submission to a state agency from which the organization receives money in the form of a donation, gift, grant or other conveyance, the organization may submit a copy of such summary annual report to the Director of the Legislative Counsel Bureau ~~[.]~~ in lieu of submitting any other report that is more frequent or specific in nature.***

3. As used in this section:

(a) "Quasi-public organization" means:

(1) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c); or

(2) Any entity that is created by or pursuant to an interlocal agreement.

(b) "State agency" means an agency, bureau, board, commission, department, division or any other unit of the Executive Department of the State Government.

Sec. 6. (Deleted by amendment.)

Sec. 7. **(Deleted by amendment.)**

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

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 248.

Bill read second time.

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

Amendment No. 390.

AN ACT relating to state financial administration; revising certain requirements for the proposed budget of the Executive Department of the State Government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law specifies the contents of the proposed budget of the Executive Department of the State Government. (NRS 353.205) **Section 1** of this bill requires each proposed budget to include certain information regarding long-term performance goals and intermediate objectives of the Executive Department **, clarifies the provisions governing certain contents of the proposed budget** and requires the posting of certain information on various Internet websites maintained by the State. **Section 2** of this bill clarifies the provisions governing the information that state agencies are required to submit to the Budget Division of the Department of Administration to assist the Budget Division in preparing proposed executive budgets. (NRS 353.210)

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

Section 1. NRS 353.205 is hereby amended to read as follows:

353.205 1. The proposed budget for the Executive Department of the State Government for each fiscal year must be set up in three parts:

(a) Part 1 must consist of a budgetary message by the Governor which ~~[outlines the financial policy of the Executive Department of the State Government for the next 2 fiscal years, describing in connection therewith the important features of the financial plan. It must also embrace a]~~ ***includes:***

(1) A general summary of the long-term performance goals of the Executive Department of the State Government for:

(I) Core governmental functions, including the education of pupils in kindergarten through grade 12, higher education, human services and public safety and health; and

(II) Other governmental services;

(2) An explanation of the means by which the proposed budget will provide adequate funding for those governmental functions and services

such that ratable progress will be made toward achieving those long-term performance goals;

(3) An outline of any other important features of the financial plan of the Executive Department of the State Government for the next 2 fiscal years; and

(4) A general summary of the proposed budget setting forth the aggregate figures of the proposed budget in such a manner as to show the balanced relations between the total proposed expenditures and the total anticipated revenues, together with the other means of financing the proposed budget for the next 2 fiscal years, contrasted with the corresponding figures for the last completed fiscal year and fiscal year in progress. The general summary of the proposed budget must be supported by explanatory schedules or statements, classifying the expenditures contained therein by organizational units, objects and funds, and the income by organizational units, sources and funds. ***The organizational units may be subclassified by functions and by agencies, bureaus or commissions, or in any other manner determined by the Chief.***

(b) Part 2 must embrace the detailed budgetary estimates both of expenditures and revenues as provided in NRS 353.150 to 353.246, inclusive. The information must be presented in a manner which sets forth separately the cost of continuing each program at the same level of service as the current year and the cost, by budgetary issue, of any recommendations to enhance or reduce that level of service. Revenues must be summarized by type, and expenditures must be summarized by ***program or budgetary account and by*** category of expense. Part 2 must include ~~[(a)]~~ ***:***

(1) The identification of each long-term performance goal of the Executive Department of the State Government for:

(I) Core governmental functions, including the education of pupils in kindergarten through grade 12, higher education, human services, and public safety and health; and

(II) Other governmental services,

➥ and of each intermediate objective for the next 2 fiscal years toward achieving those goals.

(2) An explanation of the means by which the proposed budget will provide adequate funding for those governmental functions and services such that those intermediate objectives will be met and progress will be made toward achieving those long-term performance goals.

(3) A mission statement and measurement indicators for each ~~[program. It must also include statements]~~ ***department, institution and other agency of the Executive Department of the State Government, which articulate the intermediate objectives and long-term performance goals each such department, institution and other agency is tasked with achieving and the particular measurement indicators tracked for each such department, institution and other agency to determine whether the department, institution or other agency is successful in achieving its intermediate***

objectives and long-term performance goals, provided in sufficient detail to assist the Legislature in performing an analysis of the relative costs and benefits of program budgets and in determining priorities for expenditures. If available, information regarding such measurement indicators must be provided for each of the previous 4 fiscal years. If a new measurement indicator is being added, a rationale for that addition must be provided. If a measurement indicator is being modified, information must be provided regarding both the modified indicator and the indicator as it existed before modification. If a measurement indicator is being deleted, a rationale for that deletion and information regarding the deleted indicator must be provided.

(4) Statements of the bonded indebtedness of the State Government, showing the requirements for redemption of debt, the debt authorized and unissued, and the condition of the sinking funds ***.*** ~~[, and any]~~

(5) Any statements relative to the financial plan which the Governor may deem desirable, or which may be required by the Legislature.

(c) Part 3 must include a recommendation to the Legislature for the drafting of a general appropriation bill authorizing, by departments, institutions and agencies, and by funds, all expenditures of the Executive Department of the State Government for the next 2 fiscal years, and may include recommendations to the Legislature for the drafting of such other bills as may be required to provide the income necessary to finance the proposed budget and to give legal sanction to the financial plan if adopted by the Legislature.

2. Except as otherwise provided in NRS 353.211, as soon as each part of the proposed budget is prepared, a copy of the part must be transmitted to the Fiscal Analysis Division of the Legislative Counsel Bureau for confidential examination and retention.

3. Except for the information provided to the Fiscal Analysis Division of the Legislative Counsel Bureau pursuant to NRS 353.211, parts 1 and 2 of the proposed budget are confidential until the Governor transmits the proposed budget to the Legislature pursuant to NRS 353.230, regardless of whether those parts are in the possession of the Executive or Legislative Department of the State Government. Part 3 of the proposed budget is confidential until the bills which result from the proposed budget are introduced in the Legislature. ***As soon as practicable after the Governor transmits the proposed budget to the Legislature pursuant to NRS 353.230, the information required to be included in the proposed budget pursuant to subparagraphs (1), (2) and (3) of paragraph (b) of subsection 1 must be posted on the Internet websites maintained by the Governor, the Department of Administration and the Budget Division of the Department of Administration.***

Sec. 2. NRS 353.210 is hereby amended to read as follows:

353.210 1. Except as otherwise provided in subsection 6, on or before September 1 of each even-numbered year, all departments, institutions and

other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of ***full-time equivalent*** positions within the department, institution or agency ***;***

(b) The number of full-time equivalent positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy;

~~[(b)]~~ ***(c)*** Any existing contracts the department, institution or agency has with consultants or temporary employment services, the proposed expenditures for such contracts in the next 2 fiscal years and the reasons for the use of such consultants or services; and

~~[(c)]~~ ***(d)*** Estimates of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his or her designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures ~~[,]~~ ***by program or budgetary account and by category of expense,*** and must include a mission statement and measurement indicators ~~[for each program.]~~ ***in adequate detail to comply with the requirements of subparagraph (3) of paragraph (b) of subsection 1 of NRS 353.205.*** The organizational units may be subclassified by functions and ~~[activities,]~~ ***by agencies, bureaus or commissions,*** or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in the Chief's office or

which the Chief may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his or her information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

Sec. 3. NRS 353.211 is hereby amended to read as follows:

353.211 1. On or before October 15 of each even-numbered year, the Chief shall provide to the Fiscal Analysis Division of the Legislative Counsel Bureau:

(a) Computerized budget files containing the actual data regarding revenues and expenditures for the previous year;

(b) The work programs for the current year; and

(c) Each agency's requested budget for the next 2 fiscal years.

2. On or before December 31 of each even-numbered year, the Chief shall provide to the Fiscal Analysis Division:

(a) Each agency's adjusted base budget by ***program or*** budgetary account for the next 2 fiscal years; and

(b) An estimated range of the costs for:

(1) Continuing the operation of State Government; and

(2) Providing elementary, secondary and higher public education,

➥ at the current level of service.

3. The information provided to the Fiscal Analysis Division pursuant to subsections 1 and 2 is open for public inspection.

4. The Governor may authorize or direct an agency to hold public hearings on a budget submitted pursuant to paragraph (c) of subsection 1 at any time after the material is provided pursuant to subsection 1.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 277.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 316.

SUMMARY—Provides for ~~[the creation of alternative]~~ special license plates honoring ~~[service of]~~ female veterans. (BDR 43-810)

AN ACT relating to motor vehicles; requiring the Department of Motor Vehicles, with respect to special license plates for the support of outreach programs and services for veterans and their families, to make **such plates** available ~~[an alternative version of the plates indicating service as a]~~ **to**

female ~~[veteran;]~~ **veterans with an optional image representative of female veterans;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Motor Vehicles to order the preparation of special license plates for the support of outreach programs and services for veterans and their families. These special license plates are available to veterans of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, a reserve component thereof or the National Guard, or the spouse, parent or child of such a veteran. (NRS 482.3763) **Section 4** of this bill requires the Department to make **the plates** available **: (1)** to female veterans ~~[of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, a reserve component thereof or the National Guard, an alternative version of the special license plates for the support of outreach programs and services for veterans and their families. Such alternative version must indicate specifically that the veteran is a female veteran.]~~ **; and (2) with an optional image representative of female veterans.** The fees for the initial issuance and renewal of the ~~[alternative]~~ **optional** version of the special license plates for the support of outreach programs and services for veterans and their families are the same as for the regular version.

Under existing law, new special license plates authorized by an act of the Legislature typically are subject to all of the following: (1) approval or disapproval by the Commission on Special License Plates; (2) the limitation on the number of separate designs of special license plates that may be issued by the Department at any one time; and (3) the requirement that the Department receive at least 1,000 applications for the issuance of the plate within 2 years after the effective date of the act of the Legislature. (NRS 482.367004, 482.367008, 482.36705) ~~[Sections 1-3 of this bill exempt the alternative]~~ **The optional** special license plates for female veterans **are exempt** from all three of ~~[those]~~ **the preceding** requirements **[.** ~~The rationale for those exemptions is that the alternative special license plates for female veterans are not an entirely separate design of special license plates but, instead,~~**]** **because the plates** are simply an ~~[alternate]~~ **optional** version of existing special license plates for veterans.

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

Section 1. ~~[NRS 482.367004 is hereby amended to read as follows:~~

~~482.367004 1. There is hereby created the Commission on Special License Plates consisting of five Legislators and three nonvoting members as follows:~~

~~(a) Five Legislators appointed by the Legislative Commission:~~

~~(1) One of whom is the Legislator who served as the Chair of the Assembly Standing Committee on Transportation during the most recent legislative session. That Legislator may designate an alternate to serve in~~

~~place of the Legislator when absent. The alternate must be another Legislator who also served on the Assembly Standing Committee on Transportation during the most recent legislative session.~~

~~(2) One of whom is the Legislator who served as the Chair of the Senate Standing Committee on Transportation during the most recent legislative session. That Legislator may designate an alternate to serve in place of the Legislator when absent. The alternate must be another Legislator who also served on the Senate Standing Committee on Transportation during the most recent legislative session.~~

~~(b) Three nonvoting members consisting of:~~

~~(1) The Director of the Department of Motor Vehicles, or a designee of the Director.~~

~~(2) The Director of the Department of Public Safety, or a designee of the Director.~~

~~(3) The Director of the Department of Cultural Affairs, or a designee of the Director.~~

~~2. Each member of the Commission appointed pursuant to paragraph (a) of subsection 1 serves a term of 2 years, commencing on July 1 of each odd-numbered year. A vacancy on the Commission must be filled in the same manner as the original appointment.~~

~~3. Members of the Commission serve without salary or compensation for their travel or per diem expenses.~~

~~4. The Director of the Legislative Counsel Bureau shall provide administrative support to the Commission.~~

~~5. The Commission shall approve or disapprove:~~

~~(a) Applications for the design, preparation and issuance of special license plates that are submitted to the Department pursuant to subsection 1 of NRS 482.367002;~~

~~(b) The issuance by the Department of special license plates that have been designed and prepared pursuant to NRS 482.367002; and~~

~~(c) Except as otherwise provided in subsection 6, applications for the design, preparation and issuance of special license plates that have been authorized by an act of the Legislature after January 1, 2007.~~

~~→ In determining whether to approve such an application or issuance, the Commission shall consider, without limitation, whether it would be appropriate and feasible for the Department to, as applicable, design, prepare or issue the particular special license plate. The Commission shall consider each application in the chronological order in which the application was received by the Department.~~

~~6. The provisions of paragraph (c) of subsection 5 do not apply with regard to special license plates that are issued pursuant to NRS *482.3763 or* 482.3785.~~

~~7. The Commission shall:~~

~~(a) Approve or disapprove any proposed change in the distribution of money received in the form of additional fees. As used in this paragraph,~~

~~"additional fees" means the fees that are charged in connection with the issuance or renewal of a special license plate for the benefit of a particular cause, fund or charitable organization. The term does not include registration and license fees or governmental services taxes.~~

~~(b) If it approves a proposed change pursuant to paragraph (a) and determines that legislation is required to carry out the change, request the assistance of the Legislative Counsel in the preparation of a bill draft to carry out the change.~~] **(Deleted by amendment.)**

Sec. 2. ~~[NRS 482.367008 is hereby amended to read as follows:~~

~~482.367008 1. As used in this section, "special license plate" means:~~

~~(a) A license plate that the Department has designed and prepared pursuant to NRS 482.367002 in accordance with the system of application and petition described in that section;~~

~~(b) A license plate approved by the Legislature that the Department has designed and prepared pursuant to NRS 482.3747, 482.37903, 482.37905, 482.37917, 482.379175, 482.37918, 482.37919, 482.3792, 482.3793, 482.37933, 482.37934, 482.37935, 482.379355, 482.379365, 482.37937, 482.379375, 482.37938 or 482.37945; and~~

~~(c) Except for a license plate that is issued pursuant to NRS *482.3763 or* 482.3785, a license plate that:~~

~~(1) Is approved by the Legislature after July 1, 2005; and~~

~~(2) Differs substantially in design from the license plates that are described in subsection 1 of NRS 482.270.~~

~~2. Notwithstanding any other provision of law to the contrary, the Department shall not, at any one time, issue more than 25 separate designs of special license plates. Whenever the total number of separate designs of special license plates issued by the Department at any one time is less than 25, the Department shall issue a number of additional designs of special license plates that have been authorized by an act of the Legislature or the application for which has been approved by the Commission on Special License Plates pursuant to subsection 5 of NRS 482.367004, not to exceed a total of 25 designs issued by the Department at any one time. Such additional designs must be issued by the Department in accordance with the chronological order of their authorization or approval.~~

~~3. Except as otherwise provided in this subsection, on October 1 of each year the Department shall assess the viability of each separate design of special license plate that the Department is currently issuing by determining the total number of validly registered motor vehicles to which that design of special license plate is affixed. The Department shall not determine the total number of validly registered motor vehicles to which a particular design of special license plate is affixed if:~~

~~(a) The particular design of special license plate was designed and prepared by the Department pursuant to NRS 482.367002; and~~

~~(b) On October 1, that particular design of special license plate has been available to be issued for less than 12 months.~~

~~4. Except as otherwise provided in subsection 6, if, on October 1, the total number of validly registered motor vehicles to which a particular design of special license plate is affixed is:~~

~~(a) In the case of special license plates designed and prepared by the Department pursuant to NRS 482.367002, less than 1,000; or~~

~~(b) In the case of special license plates authorized directly by the Legislature which are described in paragraph (b) of subsection 1, less than the number of applications required to be received by the Department for the initial issuance of those plates,~~

~~→ the Director shall provide notice of that fact in the manner described in subsection 5.~~

~~5. The notice required pursuant to subsection 4 must be provided:~~

~~(a) If the special license plate generates financial support for a cause or charitable organization, to that cause or charitable organization.~~

~~(b) If the special license plate does not generate financial support for a cause or charitable organization, to an entity which is involved in promoting the activity, place or other matter that is depicted on the plate.~~

~~6. If, on December 31 of the same year in which notice was provided pursuant to subsections 4 and 5, the total number of validly registered motor vehicles to which a particular design of special license plate is affixed is:~~

~~(a) In the case of special license plates designed and prepared by the Department pursuant to NRS 482.367002, less than 1,000; or~~

~~(b) In the case of special license plates authorized directly by the Legislature which are described in paragraph (b) of subsection 1, less than the number of applications required to be received by the Department for the initial issuance of those plates,~~

~~→ the Director shall, notwithstanding any other provision of law to the contrary, issue an order providing that the Department will no longer issue that particular design of special license plate. Such an order does not require existing holders of that particular design of special license plate to surrender their plates to the Department and does not prohibit those holders from renewing those plates.~~ **(Deleted by amendment.)**

Sec. 3. ~~[NRS 482.36705 is hereby amended to read as follows:~~

~~482.36705 1. Except as otherwise provided in subsection 2:~~

~~(a) If a new special license plate is authorized by an act of the Legislature after January 1, 2003, other than a special license plate that is authorized pursuant to NRS~~ ***482.3763 or*** ~~482.379375, the Legislature will direct that the license plate not be designed, prepared or issued by the Department unless the Department receives at least 1,000 applications for the issuance of that plate within 2 years after the effective date of the act of the Legislature that authorized the plate.~~

~~(b) In addition to the requirements set forth in paragraph (a), if a new special license plate is authorized by an act of the Legislature after July 1, 2005, the Legislature will direct that the license plate not be issued by the~~

~~Department unless its issuance complies with subsection 2 of NRS 482.367008.~~

~~(c) In addition to the requirements set forth in paragraphs (a) and (b), if a new special license plate is authorized by an act of the Legislature after January 1, 2007, the Legislature will direct that the license plate not be designed, prepared or issued by the Department unless the Commission on Special License Plates approves the application for the authorized plate pursuant to NRS 482.367004.~~

~~2. The provisions of subsection 1 do not apply with regard to special license plates that are issued pursuant to NRS *482.3763 or* 482.3785.]~~ **(Deleted by amendment.)**

Sec. 4. NRS 482.3763 is hereby amended to read as follows:

482.3763 1. The Director shall order the preparation of special license plates for the support of outreach programs and services for veterans and their families and establish procedures for the application for and issuance of the plates.

2. The Department shall, upon application therefor and payment of the prescribed fees, issue special license plates for the support of outreach programs and services for veterans and their families to:

(a) A veteran of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, a reserve component thereof or the National Guard; ~~[or]~~

(b) ***A female veteran; or***

(c) The spouse, parent or child of a person described in paragraph (a) ~~[.]~~ ***or (b).***

➥ The

~~[3. Except as otherwise provided in subsection 4, special license]~~ plates *~~[for the support of outreach programs and services for veterans and their families]~~* must be inscribed with the word "VETERAN" and with the seal of the branch of the Armed Forces of the United States, ~~[or]~~ the seal of the National Guard ~~[.]~~ ***or an image representative of the female veterans,*** as applicable, requested by the applicant.

~~[4. The Department shall, using any colors and designs which the Department deems appropriate, make available to female veterans of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, a reserve component thereof or the National Guard, an alternative version of the special license plates for the support of outreach programs and services for veterans and their families. Such alternative version must indicate specifically that the veteran is a female veteran.~~

~~5.]~~ A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with special license plates for the support of outreach programs and services for veterans and their families if that person pays the fees for the personalized prestige license plates in addition to the fees for the special license plates for the support of outreach programs and services for veterans and their families pursuant to subsection 4.

3. ~~[7.~~

~~6.]~~ If, during a registration year, the holder of special plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall:

(a) Retain the plates and affix them to another vehicle which meets the requirements of this section if the holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or

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

4. ~~[7.]~~ In addition to all other applicable registration and license fees and governmental services taxes, and to the special fee imposed pursuant to NRS 482.3764 for the support of outreach programs and services for veterans and their families, the fee for:

(a) The initial issuance of the special license plates is $35.

(b) The annual renewal sticker is $10.

5. ~~[8.]~~ If the special plates issued pursuant to this section are lost, stolen or mutilated, the owner of the vehicle may secure a set of replacement license plates from the Department for a fee of $10.

Sec. 5. **The Nevada Veterans' Services Commission, created by NRS 417.150, shall provide an image representative of female veterans to the Department of Motor Vehicles for the purposes of NRS 482.3763, as amended by section 4 of this act.**

Assemblywoman Dondero Loop moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 337.

Bill read second time.

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

Amendment No. 167.

AN ACT relating to campaign practices; requiring a notice of an alleged violation of provisions governing campaign practices to include certain information; requiring the Secretary of State to provide a copy of the notice and any accompanying information to the person alleged in the notice to have committed the violation; authorizing the person to respond ~~[within a certain period;]~~ **to such a notice;** authorizing the Secretary of State **to conduct an investigation based on such a notice in certain circumstances; authorizing the Secretary of State** or a designated officer or employee of the Secretary of State to subpoena witnesses and require the production of documents or records by subpoena when conducting ~~[certain investigations relating to campaign practices;]~~ **an investigation based on such a notice in certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law confers authority upon the Secretary of State to conduct investigations concerning alleged violations of chapter 294A of NRS governing campaign practices. Existing law also authorizes a person who believes that any provision of that chapter has been violated to notify the Secretary of State in writing. The notice must be signed by the person and include any information in support of the alleged violation. (NRS 294A.410) This bill specifies the information that must be included in the notice and requires the Secretary of State to provide a copy of the notice and any accompanying information to the person alleged in the notice to have committed the violation. **If, based on such a notice, the Secretary of State determines that reasonable suspicion exists that a violation has occurred, the Secretary of State is authorized to investigate the allegation.** This bill further provides that, **if the notice is received within 180 days after the general election, general city election or special election for the office or ballot question to which the notice pertains, the Secretary of State is authorized,** when conducting an investigation ~~[concerning an alleged violation of that chapter, the Secretary of State may]~~ **based on the notice, to** subpoena witnesses and require the production by subpoena of any books, papers, correspondence, memoranda, agreements or other documents or records ~~[which]~~ **in the possession of the person alleged in the notice to have committed the violation that** the Secretary of State or a designated officer or employee of the Secretary of State determines are relevant or material to the investigation**.** ~~[and not otherwise obtainable.]~~ Finally, this bill authorizes the Secretary of State or a designated officer or employee of the Secretary of State to apply to a court for an order compelling compliance if a person fails to testify or produce the required documents or records.

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

Section 1. NRS 294A.410 is hereby amended to read as follows:

294A.410 1. If it appears that the provisions of this chapter have been violated, the Secretary of State may:

(a) Conduct an investigation concerning the alleged violation and cause the appropriate proceedings to be instituted and prosecuted in the First Judicial District Court; or

(b) Refer the alleged violation to the Attorney General. The Attorney General shall investigate the alleged violation and institute and prosecute the appropriate proceedings in the First Judicial District Court without delay.

2. A person who believes that any provision of this chapter has been violated may notify the Secretary of State, in writing, of the alleged violation. The notice must be signed by the person alleging the violation and include ~~[any]~~ ***:***

(a) The full name and address of the person alleging the violation;

(b) A clear and concise statement of facts sufficient to establish that the alleged violation occurred;

(c) Any evidence substantiating the alleged violation;

(d) ~~*[A citation to the specific provision of this chapter alleged to have been violated;*~~

~~*(e)]*~~ ***A certification by the person alleging the violation that the facts alleged in the notice are true to the best knowledge and belief of that person; and***

~~*[(f)]*~~ ***(e) Any other*** information in support of the alleged violation.

3. As soon as practicable after receiving a notice of an alleged violation pursuant to subsection 2, the Secretary of State shall provide a copy of the notice and any accompanying information to the person alleged in the notice to have committed the violation. ~~*[Within 30 days after receiving the copy, the person may submit a response to the Secretary of State concerning the alleged violation. A]*~~ ***Any response submitted*** ~~*[pursuant to this subsection]*~~ ***to the notice must be accompanied by a short statement of the grounds, if any, for objecting to the alleged violation and include any evidence substantiating the objection.***

4. ~~*[When]*~~ ***If the Secretary of State determines, based on a notice of an alleged violation received pursuant to subsection 2, that reasonable suspicion exists that a violation of this chapter has occurred, the Secretary of State may conduct an investigation of the alleged violation.***

5. If a notice of an alleged violation is received pursuant to subsection 2 not later than 180 days after the general election, general city election or special election for the office or ballot question to which the notice pertains, the Secretary of State, when conducting an investigation of ~~*[an]*~~ ***the alleged violation*** ~~*[received]*~~ ***pursuant to subsection*** ~~*[2, the Secretary of State]*~~ ***4, may subpoena witnesses and require the production by subpoena of any books, papers, correspondence, memoranda, agreements or other documents or records*** ~~*[which]*~~ ***in the possession of the person alleged in the notice to have committed the violation that the Secretary of State or a designated officer or employee of the Secretary of State determines*** ~~*[:*~~

~~*(a) Are]*~~ ***are relevant or material to the investigation .*** ~~*[; and*~~

~~*(b) Are not otherwise obtainable.*~~

~~*5.]*~~ ***6. If a person fails to testify or produce*** ~~*[the]*~~ ***any documents or records*** ~~*[required by the Secretary of State or designated officer or employee,]*~~ ***in accordance with a subpoena issued pursuant to subsection 5, the Secretary of State or designated officer or employee may apply to the court for an order compelling compliance. A request for an order of compliance may be addressed to:***

(a) The district court in and for the county where service may be obtained on the person refusing to testify or produce the documents or records, if the person is subject to service of process in this State; or

(b) A court of another state having jurisdiction over the person refusing to testify or produce the documents or records, if the person is not subject to service of process in this State.

Assemblywoman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 351.

Bill read second time.

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

Amendment No. 288.

AN ACT relating to motor carriers; authorizing operators of taxicabs and operators of limousines to accept credit cards and debit cards for payment of rates, fares and charges; authorizing the prescribing of maximum fees that may be charged to customers of taxicabs and limousines for the convenience of payment by a credit card or debit card; prohibiting issuers of credit cards and debit cards ~~[in this State]~~ **and certain other persons** from prohibiting the collection of the convenience fees; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Transportation Authority regulates common motor carriers of passengers, which include limousines and, in counties with a population of less than 400,000 (currently all counties other than Clark County), taxicabs. (NRS 706.166) The Taxicab Authority regulates taxicabs in counties with a population of 400,000 or more (currently Clark County). (NRS 706.8818)

Sections 2 and 3 of this bill authorize taxicab and limousine operators to accept payment by a credit card or debit card. **Section 2** authorizes the Nevada Transportation Authority to prescribe by regulation **or order** the maximum fees that a taxicab motor carrier or limousine operator within its jurisdiction may charge for the convenience of paying by using a credit card or debit card. **Section 3** authorizes the Taxicab Authority to prescribe by regulation **or order** the maximum fees that a certificate holder in a county whose population is 400,000 or more may charge for the convenience of paying by using a credit card or debit card. **Sections** ~~[9 and 10 of this bill]~~ **2 and 3 also** prohibit an issuer of a credit card or debit card ~~[who is located in this State]~~ **or certain other persons who facilitate the acceptance of a credit card or debit card** from prohibiting the collection by a taxicab or limousine operator of the convenience fee.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. A taxicab motor carrier or an operator of a limousine may enter into a contract with an issuer of credit cards and debit cards to provide for the acceptance of credit cards or debit cards by the taxicab motor carrier or the operator of a limousine for the payment of rates, fares and charges owed to the taxicab motor carrier or the operator of a limousine.*

2. The Authority may prescribe by regulation or order the maximum fee that a taxicab motor carrier or an operator of a limousine may charge a customer for the convenience of using a credit card or debit card to make payment to the taxicab motor carrier or the operator of a limousine. In prescribing such fees, the Authority may consider the expenses incurred by the taxicab motor carrier or the operator of a limousine in accepting payment by a credit card or debit card, including, without limitation:

(a) Costs of required equipment and its installation;

(b) Administrative costs of processing credit card or debit card transactions; and

(c) Fees paid to issuers of credit cards or debit cards.

3. ~~[For contracts between a taxicab motor carrier or an operator of a limousine and an issuer located outside this State, a taxicab motor carrier or an operator of a limousine may only charge a fee authorized by this section to the extent that the fee is allowed under the contract between the taxicab motor carrier or the operator of a limousine and the issuer of the credit card or debit card.]~~ An issuer shall not, by contract or otherwise:

(a) Prohibit a taxicab motor carrier or an operator of a limousine from charging and collecting a fee authorized pursuant to subsection 2; or

(b) Require a taxicab motor carrier or an operator of a limousine to waive the right to charge and collect a fee authorized pursuant to subsection 2.

4. As used in this section, "issuer" ~~[has the meaning ascribed to it in NRS 205.650.]~~ means a business organization, financial institution or a duly authorized agency of a business organization or financial institution which:

(a) Issues a credit card or debit card; or

(b) Enters into a contract with a taxicab motor carrier, an operator of a limousine or other person to enable or facilitate the acceptance of a credit card or debit card.

Sec. 3. *1. A certificate holder may enter into a contract with an issuer of credit cards and debit cards to provide for the acceptance of credit cards or debit cards by the certificate holder for the payment of rates, fares and charges owed to the certificate holder.*

2. The Taxicab Authority may prescribe by regulation or order the maximum fee that a certificate holder may charge a customer for the convenience of using a credit card or debit card to make payment to the certificate holder. In prescribing such fees, the Taxicab Authority may

consider the expenses incurred by the certificate holder in accepting payment by a credit card or debit card, including, without limitation:

(a) Costs of required equipment and its installation;

(b) Administrative costs of processing credit card or debit card transactions; and

(c) Fees paid to issuers of credit cards or debit cards.

3. ~~[For contracts between a certificate holder and an issuer located outside this State, a certificate holder may only charge a fee authorized by this section to the extent that the fee is allowed under the contract between the certificate holder and the issuer of the credit card or debit card.]~~ An issuer shall not, by contract or otherwise:

(a) Prohibit a certificate holder from charging and collecting a fee authorized pursuant to subsection 2; or

(b) Require a certificate holder to waive the right to charge and collect a fee authorized pursuant to subsection 2.

4. As used in this section, "issuer" ~~[has the meaning ascribed to it in NRS 205.650.]~~ means a business organization, financial institution or a duly authorized agency of a business organization or financial institution which:

(a) Issues a credit card or debit card; or

(b) Enters into a contract with a certificate holder or other person to enable or facilitate the acceptance of a credit card or debit card.

Sec. 4. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, ***and section 2 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, ***and section 2 of this act*** apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, ***and section 2 of this act*** or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~[;]~~ ***, and section 2 of this act;***

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~[;]~~ ***, and section 2 of this act;***

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~[.]~~ ***, and section 2 of this act;***

(g) Advertises as providing:

(1) The services of a fully regulated carrier; or

(2) Towing services,

➥ without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;

(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;

(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;

(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;

(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;

(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or

(m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter,

➥ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $100 nor more than $1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:

(a) For a first offense within a period of 12 consecutive months, by a fine of not less than $500 nor more than $1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

(b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of $1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without

first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.

4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 6. NRS 706.881 is hereby amended to read as follows:

706.881 1. The provisions of NRS 706.8811 to 706.885, inclusive, ***and section 3 of this act,*** apply to any county:

(a) Whose population is 400,000 or more; or

(b) For whom regulation by the Taxicab Authority is not required, if the board of county commissioners of the county has enacted an ordinance approving the inclusion of the county within the jurisdiction of the Taxicab Authority.

2. Upon receipt of a certified copy of such an ordinance from a county for whom regulation by the Taxicab Authority is not required, the Taxicab Authority shall exercise its regulatory authority pursuant to NRS 706.8811 to 706.885, inclusive, ***and section 3 of this act,*** within that county.

3. Within any such county, the provisions of this chapter which confer regulatory authority over taxicab motor carriers upon the Nevada Transportation Authority do not apply.

Sec. 7. NRS 706.8811 is hereby amended to read as follows:

706.8811 As used in NRS 706.881 to 706.885, inclusive, ***and section 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 706.8812 to 706.8817, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 706.885 is hereby amended to read as follows:

706.885 1. Any person who knowingly makes or causes to be made, either directly or indirectly, a false statement on an application, account or other statement required by the Taxicab Authority or the Administrator or who violates any of the provisions of NRS 706.881 to 706.885, inclusive, ***and section 3 of this act*** is guilty of a misdemeanor.

2. The Taxicab Authority or Administrator may at any time, for good cause shown and upon at least 5 days' notice to the grantee of any certificate or driver's permit, and after a hearing unless waived by the grantee, penalize the grantee of a certificate to a maximum amount of $15,000 or penalize the grantee of a driver's permit to a maximum amount of $500 or suspend or revoke the certificate or driver's permit granted by the Taxicab Authority or Administrator, respectively, for:

(a) Any violation of any provision of NRS 706.881 to 706.885, inclusive, ***and section 3 of this act*** or any regulation of the Taxicab Authority or Administrator.

(b) Knowingly permitting or requiring any employee to violate any provision of NRS 706.881 to 706.885, inclusive, ***and section 3 of this act*** or any regulation of the Taxicab Authority or Administrator.

➥ If a penalty is imposed on the grantee of a certificate pursuant to this section, the Taxicab Authority or Administrator may require the grantee to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. When a driver or certificate holder fails to appear at the time and place stated in the notice for the hearing, the Administrator shall enter a finding of default. Upon a finding of default, the Administrator may suspend or revoke the license, permit or certificate of the person who failed to appear and impose the penalties provided in this chapter. For good cause shown, the Administrator may set aside a finding of default and proceed with the hearing.

4. Any person who operates or permits a taxicab to be operated in passenger service without a certificate of public convenience and necessity issued pursuant to NRS 706.8827, is guilty of a gross misdemeanor. If a law enforcement officer witnesses a violation of this subsection, the law enforcement officer may cause the vehicle to be towed immediately from the scene.

5. The conviction of a person pursuant to subsection 1 does not bar the Taxicab Authority or Administrator from suspending or revoking any certificate, permit or license of the person convicted. The imposition of a fine or suspension or revocation of any certificate, permit or license by the Taxicab Authority or Administrator does not operate as a defense in any proceeding brought under subsection 1.

Sec. 9. ~~[NRS 97A.210 is hereby amended to read as follows:~~

~~97A.210 *1.* No issuer may, by contract or otherwise, prohibit a merchant from offering a discount to a customer to induce the customer to pay by cash, check or similar means rather than by use of a credit card or a credit card account for the purchase of goods or services.~~

~~***2. No issuer located in this State may, by contract or otherwise, prohibit a taxicab motor carrier or an operator of a limousine from charging and collecting a fee authorized pursuant to subsection 2 of section 2 of this act, or a certificate holder from charging and collecting such a fee pursuant to subsection 2 of section 3 of this act, as applicable, for payment by a credit card.]***~~ **(Deleted by amendment.)**

Sec. 10. ~~[Chapter 657 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~***1. An issuer shall not, by contract or otherwise, prohibit a taxicab motor carrier or an operator of a limousine from charging and collecting a fee authorized pursuant to subsection 2 of section 2 of this act, or a***~~

~~*certificate holder from charging and collecting such a fee pursuant to subsection 2 of section 3 of this act, as applicable, for payment by a credit card or debit card.*~~

~~*2. As used in this section:*~~

~~*(a) "Credit card" means any instrument or device, whether known as a credit card or by any other name, that is issued with or without a fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value on credit.*~~

~~*(b) "Debit card" means any instrument or device, whether known as a debit card or by any other name, that is issued with or without a fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value, subject to the issuer removing money from the checking account or savings account of the cardholder.*~~

~~*(c) "Issuer" means a financial institution, business organization or authorized agent of a financial institution or business organization which:*~~

~~*(1) Is located in this State;*~~

~~*(2) Is licensed pursuant to the provisions of this title or title 56 of NRS; and*~~

~~*(3) Issues a credit card or debit card.]*~~ **(Deleted by amendment.)**

Assemblywoman Benitez-Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 360.

Bill read second time.

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

Amendment No. 261.

SUMMARY—Revises provisions governing the imposition of civil penalties for violations of city **or county** ordinances regarding the abatement of certain conditions and nuisances on property within the city ~~[.]~~ **or county.** (BDR 21-266)

AN ACT relating to ~~[cities;]~~ **local governments;** authorizing a city **or county** to collect civil penalties imposed for failure to abate certain conditions and nuisances on property within the city **or county** as a special assessment against the property under certain circumstances; revising provisions relating to the maximum amount of a civil penalty that may be imposed for failure to abate certain nuisances on property within the city **or county** under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if an owner of property within a city fails to abate a dangerous or noxious condition, a chronic nuisance or, in larger counties, an abandoned nuisance on the property after being directed to do so, the owner

may be required to pay civil penalties as well as any costs incurred by the city to abate the condition or nuisance. In addition to any other reasonable means of recovering its abatement costs, the city is authorized to make those costs a special assessment against the property and collect the special assessment in the same manner as ordinary county taxes are collected. (NRS 268.4122-268.4126) **Existing law sets forth parallel authority for counties to abate chronic nuisances and public nuisances and provides that abatement costs for public nuisances must be received as a special assessment against the affected property. (NRS 244.3603, 244.3605)** This bill authorizes ~~[the]~~ **a** city **or county** to also collect any civil penalties imposed against the owner of the property as a special assessment against the property if the amount of the uncollected civil penalties after 12 months is more than $5,000.

Under existing law, the maximum civil penalty that is authorized to be imposed on an owner of property in ~~[the]~~ **a** city **or county** for failure to abate a chronic nuisance on the property is $500 per day. (NRS **244.3603,** 268.4124) ~~[Section]~~ **Sections 2 and 5** of this bill ~~[increases]~~ **increase** that maximum authorized civil penalty to $1,000 per day if the relevant property is nonresidential property. **Section 3** of this bill provides a maximum civil penalty that **a city** may ~~[be imposed]~~ **impose** for the failure to abate an abandoned nuisance of $1,000 per day against an owner of nonresidential property and $500 per day against an owner of residential property.

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

Section 1. NRS 268.4122 is hereby amended to read as follows:

268.4122 1. The governing body of a city may adopt by ordinance procedures pursuant to which the governing body or its designee may order an owner of property within the city to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles or junk appliances which are not subject to the provisions of chapter 459 of NRS; or

(c) Clear weeds and noxious plant growth,

➥ to protect the public health, safety and welfare of the residents of the city.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, of the existence on the property of a condition set forth in subsection 1 and the date by which the owner must abate the condition; and

(2) Afforded an opportunity for a hearing before the designee of the governing body and an appeal of that decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

(d) Provide for civil penalties for each day that the owner did not abate the condition after the date specified in the notice by which the owner was requested to abate the condition.

(e) If the county board of health, city board of health or district board of health in whose jurisdiction the incorporated city is located has adopted a definition of garbage, use the definition of garbage adopted by the county board of health, city board of health or district board of health, as applicable.

3. The governing body or its designee may direct the city to abate the condition on the property and may recover the amount expended by the city for labor and materials used to abate the condition if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition on the property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition within the period specified in the order; or

(c) The governing body or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the condition within the period specified in the order.

4. In addition to any other reasonable means ~~[of]~~ ***for*** recovering money expended by the city to abate the condition ~~[,]~~ ***and, except as otherwise provided in subsection 5, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1,*** the governing body may make the expense ***and civil penalties*** a special assessment against the property upon which the condition is or was located. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. ***Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:***

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the condition or the date specified in the order of the governing body or court by which the owner must abate the condition, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than $5,000.

6. As used in this section, "dangerous structure or condition" means a structure or condition that may cause injury to or endanger the health, life, property, safety or welfare of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 268.413 with respect to minimum levels of health, maintenance or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the governing body of a city, the violation of which is designated as a nuisance in the ordinance, rule or regulation.

Sec. 2. NRS 268.4124 is hereby amended to read as follows:

268.4124 1. The governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the city;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by the city police or other person authorized to issue a citation, of the existence on the property of two or more nuisance activities and the date by which the owner must abate the condition to prevent the matter from being submitted to the city attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public health, welfare or safety, the court shall order the city to secure and close the property for a period not to exceed 1 year or until the nuisance is abated, whichever occurs first, and may:

(a) Impose a civil penalty ***:***

(1) If the property is nonresidential property, of not more than ***$1,000 per day; or***

(2) If the property is residential property, of not more than $500 per day ***,***

➥ for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the city for the cost incurred by the city in abating the condition;

(c) If applicable, order the owner to pay reasonable expenses for the relocation of any tenants who are affected by the chronic nuisance; and

(d) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance ~~[,]~~ ***and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3,*** the governing body may make the expense ***and civil penalties*** a special assessment against the property upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. ***Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:***

(a) At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the chronic nuisance or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the chronic nuisance, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than $5,000.

6. As used in this section:

(a) A “chronic nuisance” exists:

(1) When three or more nuisance activities exist or have occurred during any 30-day period on the property.

(2) When a person associated with the property has engaged in three or more nuisance activities during any 30-day period on the property or within 100 feet of the property.

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(d) "Nuisance activity" means:

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) Excessive noise and violations of curfew; or

(4) Any other activity, behavior or conduct defined by the governing body to constitute a public nuisance.

(e) "Person associated with the property" means a person who, on the occasion of a nuisance activity, has:

(1) Entered, patronized or visited;

(2) Attempted to enter, patronize or visit; or

(3) Waited to enter, patronize or visit,

➥ a property or a person present on the property.

(f) "Residential property" means:

(1) Improved real estate that consists of not more than four residential units;

(2) Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or

(3) A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.

Sec. 3. NRS 268.4126 is hereby amended to read as follows:

268.4126 1. The governing body of each city which is located in a county whose population is 100,000 or more may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt

procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to seek:

(a) The abatement of an abandoned nuisance that is located or occurring within the city;

(b) The repair, safeguarding or demolition of any structure or property where an abandoned nuisance is located or occurring within the city;

(c) Authorization for the city to take the actions described in paragraphs (a) and (b);

(d) Civil penalties against an owner of any structure or property where an abandoned nuisance is located or occurring within the city; and

(e) Any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by a person authorized by the city to issue a citation, of the existence on the property of two or more abandoned nuisance activities and the date by which the owner must abate the abandoned nuisance to prevent the matter from being submitted to the city attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the abandoned nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will, if the owner fails to abate the abandoned nuisance, recover money expended for labor and materials used to:

(1) Abate the abandoned nuisance on the property; or

(2) If applicable, repair, safeguard or demolish a structure or property where the abandoned nuisance is located or occurring.

3. If the court finds that an abandoned nuisance exists, the court shall order the owner of the property to abate the abandoned nuisance or repair, safeguard or demolish any structure or property where the abandoned nuisance is located or occurring, and may:

(a) ***Impose a civil penalty:***

(1) If the property is nonresidential property, of not more than $1,000 per day; or

(2) If the property is residential property, of not more than $500 per day,

↪ for each day that the abandoned nuisance was not abated after the date specified in the notice by which the owner was required to abate the abandoned nuisance;

(b) If applicable, order the owner of the property to pay reasonable expenses for the relocation of any tenants who occupy the property legally and who are affected by the abandoned nuisance;

~~[(b)]~~ ***(c)*** If the owner of the property fails to comply with the order:

(1) Direct the city to abate the abandoned nuisance or repair, safeguard or demolish any structure or property where the abandoned nuisance is located or occurring; and

(2) Order the owner of the property to pay the city for the cost incurred by the city in taking the actions described in subparagraph (1); and

~~[(c)]~~ ***(d)*** Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the abandoned nuisance ~~[,]~~ ***and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3,*** the governing body of the city may make the expense ***and civil penalties*** a special assessment against the property upon which the abandoned nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. ***Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:***

(a) At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the abandoned nuisance or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the abandoned nuisance, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than $5,000.

6. As used in this section:

(a) An "abandoned nuisance" exists on any property where a building or other structure is located on the property, the property is located in a city that is in a county whose population is 100,000 or more, the property has been vacant or substantially vacant for 12 months or more and:

(1) Two or more abandoned nuisance activities exist or have occurred on the property during any 12-month period; or

(2) A person associated with the property has caused or engaged in two or more abandoned nuisance activities during any 12-month period on the property or within 100 feet of the property.

(b) "Abandoned nuisance activity" means:

(1) Instances of unlawful breaking and entering or occupancy by unauthorized persons;

(2) The presence of graffiti, debris, litter, garbage, rubble, abandoned materials, inoperable vehicles or junk appliances;

(3) The presence of unsanitary conditions or hazardous materials;

(4) The lack of adequate lighting, fencing or security;

(5) Indicia of the presence or activities of gangs;

(6) Environmental hazards;

(7) Violations of city codes, ordinances or other adopted policy; or

(8) Any other activity, behavior, conduct or condition defined by the governing body of the city to constitute a threat to the public health, safety or welfare of the residents of or visitors to the city.

(c) "Person associated with the property" means a person who, on the occasion of an abandoned nuisance activity, has:

(1) Entered, patronized or visited;

(2) Attempted to enter, patronize or visit; or

(3) Waited to enter, patronize or visit,

➥ a property or a person present on the property.

(d) "Residential property" means:

(1) Improved real estate that consists of not more than four residential units;

(2) Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or

(3) A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.

Sec. 4. **NRS 244.3601 is hereby amended to read as follows:**

244.3601 1. Notwithstanding the abatement procedures set forth in NRS 244.360 or 244.3605, a board of county commissioners may, by ordinance, provide for a reasonable means to secure or summarily abate a dangerous structure or condition that at least three persons who enforce building codes, housing codes, zoning ordinances or local health regulations, or who are members of a local law enforcement agency or fire department, determine in a signed, written statement to be an imminent danger.

2. Except as otherwise provided in subsection 3, the owner of the property on which the structure or condition is located must be given reasonable written notice that is:

(a) If practicable, hand-delivered or sent prepaid by United States mail to the owner of the property; or

(b) Posted on the property,

➥ before the structure or condition is so secured. The notice must state clearly that the owner of the property may challenge the action to secure or summarily abate the structure or condition and must provide a telephone number and address at which the owner may obtain additional information.

3. If it is determined in the signed, written statement provided pursuant to subsection 1 that the structure or condition is an imminent danger and the result of the imminent danger is likely to occur before the notice and an opportunity to challenge the action can be provided pursuant to subsection 2, then the structure or condition which poses such an imminent danger that

presents an immediate hazard may be summarily abated. A structure or condition summarily abated pursuant to this section may only be abated to the extent necessary to remove the imminent danger that presents an immediate hazard. The owner of the structure or condition which is summarily abated must be given written notice of the abatement after its completion. The notice must state clearly that the owner of the property may seek judicial review of the summary abatement and must provide an address and telephone number at which the owner may obtain additional information concerning the summary abatement.

4. The costs of securing or summarily abating the structure or condition may be made a special assessment against the real property on which the structure or condition is located and may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section:

(a) "Dangerous structure or condition" has the meaning ascribed to it in subsection ~~[5]~~ ***6*** of NRS 244.3605.

(b) "Imminent danger" means the existence of any structure or condition that could reasonably be expected to cause injury or endanger the life, safety, health or property of:

(1) The occupants, if any, of the real property on which the structure or condition is located; or

(2) The general public.

Sec. 5. **NRS 244.3603 is hereby amended to read as follows:**

244.3603 1. Each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the unincorporated area of the county;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the unincorporated area of the county and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, by the sheriff or other person authorized to issue a citation of the existence on the owner's property of nuisance activities and the date by which the owner must abate the condition to prevent the matter from being submitted to the district attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and action is necessary to avoid serious threat to the public welfare or the safety or health of the occupants of the property, the court may order the county to secure and close the property until the nuisance is abated and may:

(a) Impose a civil penalty ***:***

(1) If the property is nonresidential property, of not more than ***$1,000 per day; or***

(2) If the property is residential property, of not more than $500 per day ***,***

➥ for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and

(c) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance ~~[,]~~ ***and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3,*** the board may make the expense ***and civil penalties*** a special assessment against the property upon which the chronic nuisance is located or occurring. The special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. ***Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the board unless:***

(a) At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the chronic nuisance or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the chronic nuisance, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than $5,000.

6. As used in this section:

(a) A "chronic nuisance" exists:

(1) When three or more nuisance activities exist or have occurred during any 90-day period on the property.

(2) When a person associated with the property has engaged in three or more nuisance activities during any 90-day period on the property or within 100 feet of the property.

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(d) "Nuisance activity" means:

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;

(4) Excessive noise and violations of curfew; or

(5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.

(e) "Person associated with the property" means:

(1) The owner of the property;

(2) The manager or assistant manager of the property;

(3) The tenant of the property; or

(4) A person who, on the occasion of a nuisance activity, has:

(I) Entered, patronized or visited;

(II) Attempted to enter, patronize or visit; or

(III) Waited to enter, patronize or visit,

➥ the property or a person present on the property.

(f) "Residential property" means:

(1) Improved real estate that consists of not more than four residential units;

(2) Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or

(3) A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.

Sec. 6. **NRS 244.3605 is hereby amended to read as follows:**

244.3605 1. Notwithstanding the provisions of NRS 244.360 and 244.3601, the board of county commissioners of a county may, to abate public nuisances, adopt by ordinance procedures pursuant to which the board or its designee may order an owner of property within the county to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish and refuse which is not subject to the provisions of chapter 459 of NRS;

(c) Clear weeds and noxious plant growth; or

(d) Repair, clear, correct, rectify, safeguard or eliminate any other public nuisance as defined in the ordinance adopted pursuant to this section,

➥ to protect the public health, safety and welfare of the residents of the county.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, of the existence on the owner's property of a public nuisance set forth in subsection 1 and the date by which the owner must abate the public nuisance; and

(2) Afforded an opportunity for a hearing before the designee of the board and an appeal of that decision either to the board or to a court of competent jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.

(b) Provide that the date specified in the notice by which the owner must abate the public nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the public nuisance on the property if the owner fails to abate the public nuisance.

(d) Provide for civil penalties for each day that the owner did not abate the public nuisance after the date specified in the notice by which the owner was required to abate the public nuisance.

3. The county may abate the public nuisance on the property and may recover the amount expended by the county for labor and materials used to abate the public nuisance if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance on the owner's property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance within the period specified in the order; or

(c) The board or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the public nuisance within the period specified in the order.

4. In addition to any other reasonable means ~~[of]~~ ***for*** recovering money expended by the county to abate the public nuisance ~~[,]~~ ***and, except as otherwise provided in subsection 5, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1,*** the expense ~~[is]~~ ***and civil penalties are*** a special assessment against the property upon which the public nuisance is located, and this special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. ***Any civil penalties that have not been collected from the owner of the property are not a special assessment against the property pursuant to subsection 4 unless:***

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the public nuisance or the date specified in the order of the board or court by which the owner must abate the public nuisance, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than $5,000.

6. As used in this section, "dangerous structure or condition" means a structure or condition that is a public nuisance which may cause injury to or endanger the health, life, property or safety of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 244.3675 with respect to minimum levels of health or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the board of county commissioners of a county, the violation of which is designated by the board as a public nuisance in the ordinance, rule or regulation.

~~[Sec. 4.]~~ ***Sec. 7.*** This act becomes effective upon passage and approval.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 376.

Bill read second time.

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

Amendment No. 395.

AN ACT relating to tourism improvement districts; making various changes regarding the financing of certain local improvements with revenue pledged from sales and use taxes; **providing a procedure for the selection**

of subcontractors on certain contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the governing body of any city or county to create a tourism improvement district (TID) and to pledge revenue from several sales and use taxes imposed in that district to finance certain projects within the district. The projects may be owned by the municipality, another governmental entity or any person and may be financed through the issuance of bonds or the entry into agreements for the reimbursement of the costs of the projects. (Chapter 271A of NRS) **Section 2** of this bill requires the independent auditing of claims made under agreements to provide such financing **.** ~~[and prohibits the use of such financing to pay various fees and costs.]~~ **Section 2** also prohibits the use of such financing **, with respect to a TID created on or after July 1, 2011, to pay various fees and costs and** for the relocation within ~~[a]~~ **the** TID of a retailer from another location within 3 miles outside of the boundary of the TID **,** and excludes the use for such financing of the tax revenue from such a retailer. **Section 3** of this bill ~~[requires certain contractors on funded projects to select their subcontractors by competitive bidding.]~~ **specifies the procedure required for the selection of subcontractors by contractors and developers who enter into certain construction contracts on financed projects or on property within a TID which benefits from financed infrastructure improvements. Section 4** of this bill requires **a municipality that creates a TID to prepare and submit to the Legislature** annual reports regarding ~~[projects within a TID.]~~ **the TID, and requires the Department of Taxation to prepare and submit to the Legislature and the municipality semiannual reports regarding businesses within a TID. Section 6** of this bill applies the prevailing wage provisions applicable to public works to construction contracts for **financed** projects within a TID to the same extent as if the contracts were awarded by the municipality and the projects constituted public works.

Existing law does not allow the creation of a TID unless the pertinent governing body makes a written finding at a public hearing, based upon reports from independent consultants, as to whether the proposed project and financing will have a positive fiscal effect on the provision of local governmental services. (NRS 271A.080) **Section 5** of this bill requires the selection of those independent consultants from a list provided by the Commission on Tourism.

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

Section 1. Chapter 271A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***The governing body of a municipality:***

1. Shall require the review of each claim submitted pursuant to any contract or other agreement made with the governing body to ***provide*** *any financing or reimbursement pursuant to NRS 271A.120, by an independent auditor.*

2. Shall not ***, with respect to any district created on or after July 1, 2011,*** *provide any financing or reimbursement pursuant to NRS 271A.120 for:*

(a) Any legal fees, accounting fees, costs of insurance, fees for legal notices or costs to amend any ordinances.

(b) Any project that includes the relocation on or after July 1, 2011, to ~~*[a]*~~ ***the*** *district of any retail facilities of a retailer from another location outside of and within 3 miles of the boundary of the district. Each pledge of money pursuant to NRS 271A.070 shall be deemed to exclude any amounts attributable to any tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year by a retailer who, on or after July 1, 2011, relocates any of its retail facilities to* ~~*[a]*~~ ***the*** *district from another location outside of and within 3 miles of the boundary of the district.*

Sec. 3. *1. Except as otherwise provided in subsection 2, a contractor* ***or developer*** *who enters into a contract* ~~*[with an owner or lessee of any property included in the project]*~~ ***for original construction or a contract for benefited construction*** *shall:*

(a) ~~*[Select each subcontractor who will perform any portion of the contract based on a process of competitive bidding approved by the governing body of the municipality;*~~

~~*(b) Ensure]*~~ ***Advertise for at least 7 calendar days for bids on each subcontract for the performance of any portion of the contract;***

(b) At least 2 business days before the first day of that advertisement, provide notice of that advertisement to the governing body of the municipality;

(c) Make available to all prospective bidders on the subcontract a written set of plans and specifications for the pertinent work;

(d) Provide public notice of the name and address of each person who submits a bid on the subcontract; and

(e) After closing the period for the solicitation of bids and receiving at least three timely and responsive bids, select any subcontractor from those timely and responsive bids that the contractor or developer, in his or her sole discretion, determines to be appropriate, except that the contractor or developer shall ensure *that each subcontractor who will perform any portion of the contract is appropriately licensed pursuant to chapter 624 of NRS* ***.*** ~~*[; and*~~

~~*(c) Submit to the governing body of the municipality a list containing the name of each subcontractor who will perform any portion of the contract.]*~~

2. The provisions of subsection 1 do not apply to:

(a) Any contract which is awarded by ~~*[the]*~~ ***a*** *municipality; or*

(b) Any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

3. A governing body of a municipality that receives a notice of an advertisement for bids pursuant to paragraph (b) of subsection 1:

(a) Shall, upon such receipt, post notice of the advertisement on an Internet website maintained by the municipality; and

(b) May otherwise provide notice of the advertisement to local trade organizations and the general public.

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

(a) "Contract for benefited construction":

(1) Except as otherwise provided in subparagraphs (2) and (3), means any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any property which is located within a district and which benefits from any infrastructure improvements paid for in whole or in part:

(I) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

(II) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120.

(2) Except as otherwise provided in subparagraph (3) and unless the work is paid for in whole or in part with any public funding, does not include any:

(I) Contract or other agreement for the improvement, repair, demolition or reconstruction of any project;

(II) Contract or other agreement with the original tenant of any leased property for any improvement of the property which is to be undertaken more than 60 months after the property is first made available for lease; or

(III) Contract or other agreement for the improvement of any leased property made with any tenant of the property other than the original tenant.

(3) Does not include any contract for original construction.

(b) "Contract for original construction" means any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:

~~[(a)]~~ (1) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

~~[(b)]~~ (2) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120.

(c) "Original tenant" means the first tenant of any leased property after the property is first made available for lease.

Sec. 4. *1. On or before ~~[March]~~ September 1 of each year, the governing body of a municipality that creates a district before, on or after July 1, 2011, shall prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative*

Commission when the Legislature is not in regular session, an annual report containing:

(a) A statement of the status of each project located or expected to be located in the district, and of any changes in that status since the last annual report.

(b) ~~[A projection of the tax revenue anticipated to be generated by each project located in the district.~~

~~(c) The number of jobs created, directly or indirectly, as a result of each project located in the district.~~

~~(d)]~~ An assessment of the financial impact of the district on the provision of local governmental services, including, without limitation, services for ~~[education,]~~ police protection and fire protection.

2. ~~[The governing body of a municipality that creates a district before, on or after July 1, 2011, shall require one or more of the projects located in the district to report to the Department of Taxation, on or before February 1 of each year, such information as the governing body deems to be necessary to determine the percentage of the tax revenue collected by the project from out-of-state customers during the immediately preceding calendar year. The projects required to make such a report must be selected by the governing body in such a manner as to ensure that the projects selected collectively generate not less than 50 percent of the tax revenue from the district. On or before March 1 of each year, the Department shall provide to the Fiscal Analysis Division of the Legislative Counsel Bureau:~~

~~(a) A statement of the tax revenue generated by each project located in each district for the immediately preceding calendar year; and~~

~~(b) The information reported to the Department pursuant to this subsection for the immediately preceding calendar year.]~~ If the governing body of a municipality creates a district before, on or after July 1, 2011, the Department of Taxation shall:

(a) On or before April 1 and October 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, and to the governing body of the municipality a semiannual report which states:

(1) The amount of revenue from the taxable sales made each month by each business within the district;

(2) To the extent that the pertinent information is available, the portion of that revenue which is attributable to persons who are not residents of this State;

(3) The amount of the wages paid each month by each business within the district; and

(4) The number of full-time and part-time employees employed each month by each business within the district.

(b) Require each business within the district to report to the Department of Taxation, at such times as the Department may specify on a form

provided by the Department, such information as the Department determines to be necessary to carry out the provisions of paragraph (a).

3. Except as otherwise provided in [:

(a) Subsection] subsection 2 or another specific statute, the Department of Taxation shall not disclose any information reported to the Department pursuant to subsection 2.

[(b) Subsection 2, this paragraph or another specific statute, any information obtained by the Fiscal Analysis Division pursuant to subsection 2 shall be deemed a work product that is confidential pursuant to NRS 218F.150. The Fiscal Analysis Division may analyze the information and issue written reports based on that information but shall not disclose any proprietary or confidential information obtained from the Department pursuant to subsection 2.]

4. As used in this section, [“tax revenue”] “taxable sales” means [revenue from sales and use taxes.] any sales that are taxable pursuant to chapter 372 of NRS.

Sec. 5. NRS 271A.080 is hereby amended to read as follows:

271A.080 The governing body of a municipality shall not adopt an ordinance pursuant to NRS 271A.070 unless:

1. If the ordinance:

(a) Creates a district, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within the district on or within the 120 days immediately preceding the date of the adoption of the ordinance; or

(b) Amends the boundaries of the district to add any additional area, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within that area on or within 120 days immediately preceding the date of the adoption of the ordinance.

2. The governing body has made a written finding at a public hearing that the project will benefit the district.

3. The governing body has made a written finding at a public hearing, based upon reports from independent consultants which were addressed to the governing body, to the board of county commissioners, if the governing body is not the board of county commissioners for the county in which the tourism ***improvement*** district is or will be located, and to the board of trustees of the school district in which the tourism improvement district is or will be located, as to whether the project and the financing thereof pursuant to this chapter will have a positive fiscal effect on the provision of local governmental services, after considering:

(a) The amount of the proceeds of all taxes and other governmental revenue projected to be received as a result of the properties and businesses expected to be located in the district;

(b) The use of any money proposed to be pledged pursuant to NRS 271A.070;

(c) Any increase in costs for the provision of local governmental services, including, without limitation, services for education, including operational and capital costs, and services for police protection and fire protection, as a result of the project and the development of land within the district; and

(d) Estimates of any increases in the proceeds from sales and use taxes collected by retailers located outside of the district and of any displacement of the proceeds from sales and use taxes collected by those retailers, as a result of the properties and businesses expected to be located in the district.

➥ ***The reports required from independent consultants pursuant to this subsection must be obtained from independent consultants selected by the governing body from a list of independent consultants provided by the Commission on Tourism. For the purposes of this subsection, the Commission shall, upon the request of a governing body, provide the governing body with a list of at least three qualified independent consultants, each of whom must be located outside of this State.***

4. The governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of trustees of the school district in which the tourism improvement district is or will be located:

(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and

(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services, including education.

➥ After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of trustees shall conduct a hearing regarding the fiscal effect on the school district, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body shall consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.

5. If the governing body is not the board of county commissioners for the county in which the tourism ***improvement*** district is or will be located, the governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of county commissioners in the county in which the tourism improvement district is or will be located:

(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and

(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed

to be pledged pursuant to NRS 271A.070 on the provision of local governmental services.

➥ After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of county commissioners may conduct a hearing regarding the fiscal effect on local governmental services, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body may consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.

6. The governing body has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that:

(a) As a result of the project:

(1) Retailers will locate their businesses as such in the district; and

(2) There will be a substantial increase in the proceeds from sales and use taxes remitted by retailers with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district; and

(b) A preponderance of that increase in the proceeds from sales and use taxes will be attributable to transactions with tourists who are not residents of this State.

7. The Commission on Tourism has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that a preponderance of the increase in the proceeds from sales and use taxes identified pursuant to subsection 6 will be attributable to transactions with tourists who are not residents of this State.

8. The Governor has determined that the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 will contribute significantly to economic development and tourism in this State. Before making that determination, the Governor:

(a) Must consider the fiscal effects of the pledge of money on educational funding, including any fiscal effects described in comments provided pursuant to subsection 4 by the school district in which the tourism improvement district is or will be located, and for that purpose may require the Department of Education or the Department of Taxation, or both, to provide an appropriate fiscal report; and

(b) If the Governor determines that the pledge of money will have a substantial adverse fiscal effect on educational funding, may require a commitment from the municipality for the provision of specified payments to the school district in which the tourism improvement district is or will be located during the term of the use of any money pledged pursuant to NRS 271A.070. The payments may be provided pursuant to agreements with owners of property within the district authorized by NRS 271A.110 or from sources other than the owners of property within the district. Such a

commitment by a municipality is not subject to the limitations of subsection 1 of NRS 354.626 and, notwithstanding any other law to the contrary, is binding on the municipality for the term of the use of any money pledged pursuant to NRS 271A.070.

9. If any property within the boundaries of the district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, all of the governing bodies which created those districts have entered into an interlocal agreement providing for:

(a) The apportionment of any money pledged pursuant to NRS 271.650 and 271A.070 with respect to such property; and

(b) The priority of the application of that money between:

(1) Bonds issued pursuant to chapter 271 of NRS; and

(2) Bonds and notes issued, and agreements entered into, pursuant to NRS 271A.120.

➥ Any such agreement for the priority of the application of that money may be made irrevocable during the term of any bonds issued pursuant to chapter 271 of NRS to which all or any portion of that money is pledged, or during the term of any bonds or notes issued or any agreements entered into pursuant to NRS 271A.120 to which all or any portion of that money is pledged.

Sec. 6. NRS 271A.130 is hereby amended to read as follows:

271A.130 1. Except as otherwise provided in this section ~~[,]~~ ***and section 3 of this act and*** notwithstanding any other law to the contrary, any contract or other agreement relating to or providing for the construction, improvement, repair, demolition, reconstruction, other acquisition, equipment, operation or maintenance of any project financed in whole or in part pursuant to this chapter is exempt from any law requiring competitive bidding or otherwise specifying procedures for the award of contracts for construction or other contracts, or specifying procedures for the procurement of goods or services. The governing body of the municipality shall require a quarterly report on the demography of the workers employed by any contractor or subcontractor for each such project.

2. The provisions of subsection 1 do not apply to any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

3. ~~[The provisions of NRS 338.010 to 338.090, inclusive, apply to]~~ ***A person who enters into*** any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:

(a) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

(b) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120,

➥ ~~[regardless of whether the project is publicly or privately owned.]~~ ***shall include in the contract or other agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive. The governing body of the municipality, the contractor who is awarded the contract or enters into the agreement to perform the construction, improvement, repair, demolition or reconstruction, and any subcontractor who performs any portion of the contract or agreement shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body of the municipality had undertaken the project or had awarded the contract.***

4. The governing body of the municipality shall ensure that each contractor and developer to whom the provisions of section 3 of this act apply complies with those provisions.

Sec. 7. NRS 372.750 is hereby amended to read as follows:

372.750 1. Except as otherwise provided in this section or NRS 360.247 ~~[,]~~ ***or section 4 of this act,*** it is a misdemeanor for any member of the Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular of them, set forth or disclosed in any return, or to permit any return or copy of a return, or any book containing any abstract or particulars of it to be seen or examined by any person not connected with the Department.

2. The Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local

government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information that the Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to NRS 360.247 may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against that person.

Sec. 8. NRS 374.755 is hereby amended to read as follows:

374.755 1. Except as otherwise provided in this section or NRS 360.247 ~~[,]~~ ***or section 4 of this act,*** it is a misdemeanor for any member of the Nevada Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Department.

2. The Nevada Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, however, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the Governor may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain

a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information that the Nevada Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to NRS 360.247 may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against that person.

Sec. 9. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 10. 1. This section and sections 5 and 9 of this act become effective upon passage and approval.

2. Sections 1 to 4, inclusive, 6, 7 and 8 of this act become effective on July 1, 2011.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 404.

Bill read second time.

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

Amendment No. 244.

SUMMARY—Revises provisions regarding properties ~~[purchased or]~~ leased for use by the State. (BDR 27-381)

AN ACT relating to state buildings; requiring the Chief of the Buildings and Grounds Division of the Department of Administration to **negotiate and** approve any agreements to ~~[purchase or]~~ lease ~~[property]~~ **office rooms** for

use by certain state entities; requiring certain state entities to provide the Chief with an inventory of all **real** property used by the entity; requiring the Chief to post on an Internet website certain information regarding **[**leases of**]** **real** property **[**for**]** **owned or leased by the** State **;** **[**use;**]** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Chief of the Buildings and Grounds Division of the Department of Administration is authorized to lease and equip office rooms outside of state buildings for the use of certain state officers and employees whenever sufficient space cannot be provided within state buildings. (NRS 331.110) **Section 1** of this bill requires that **[**, before certain**]** **any agreement to lease office rooms for** state officers, departments, agencies, commissions or boards **[**may enter into an agreement to purchase or lease property, such an agreement**]** must be **negotiated,** approved **and overseen** by the Chief. **Section 1** also requires **[**certain**]** state officers, departments, agencies, commissions and boards to provide the Chief with an inventory of all **[**properties, either**]** **real property** leased **[**or owned by**]** **to** the State **[**,**]** that **[**are**]** **is** used by the state officer, department, agency, commission or board. **Section 1** further requires the Chief to post, on an Internet website, a list of **[**the properties**]** **all real property** that **[**are**]** **is** leased **or owned** by the State, including a brief description of the property, its use and the terms of the agreement under which the property is leased by the State. **Sections 2, 3 and 4** of this bill extend the requirements of **section 1** to properties **[**purchased or**]** leased for use by the Gaming Control Board, the Department of Public Safety and the Department of Motor Vehicles, which are currently exempted from certain requirements relating to the lease or purchase of property. (NRS 463.100, 480.160, 481.055)

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

Section 1. NRS 331.110 is hereby amended to read as follows:

331.110 1. *[Except as otherwise provided in subsection 7, the Chief shall oversee any agreement to purchase or lease property for use by a state officer, department, agency, board or commission.*

2.] Except as otherwise provided **[**in subsection**]** **[**2,**]** *[7,]* ***by law,*** the Chief may lease and equip office rooms outside of state buildings for the use of state officers **, [**and employees,**]** ***departments, agencies, boards and commissions*** whenever sufficient space **[**for the officers and employees**]** cannot be provided within state buildings **.** ***The Chief shall negotiate, approve and oversee any agreement to lease office rooms pursuant to this section*** , but no such lease may extend beyond the term of 1 year unless it is reviewed and approved by a majority of the members of the State Board of Examiners. The Attorney General shall approve each lease entered into pursuant to this subsection as to form and compliance with law.

~~[3.]~~ ***2.*** ***Notwithstanding any other provision of law*** ***,*** *~~[and except as otherwise provided in subsection 7,]~~* ***before the Chief enters into any lease for office rooms for any state officer, department, agency, board or commission*** ***,*** *~~[may purchase or lease property for use by that state officer, department, agency, board or commission, the agreement for purchase or lease must be approved by the Chief. In determining whether to approve such an agreement for purchase or lease,]~~* ***the Chief shall consider, without limitation:***

(a) The reasonableness of the terms of the agreement, including, without limitation, the cost; and

(b) The availability of space for use by the state officer, department, agency, board or commission in buildings that are owned by or leased to the State.

~~[4.]~~ ***3.*** *~~[No lease entered into pursuant to this section may extend beyond the term of 1 year unless it is reviewed and approved by a majority of the members of the State Board of Examiners. The Attorney General shall approve each lease entered into pursuant to this section as to form and compliance with law.~~*

~~[5. Except as otherwise provided in subsection 7, each]~~ ***Each*** ***state officer, department, agency, board and commission shall maintain and provide to the Chief an inventory of all real property*** *~~[owned by or]~~* ***leased to the State that is occupied by or otherwise used by the state officer, department, agency, board and commission. The Division of State Lands, Department of Transportation and State Public Works Board shall maintain and provide to the Chief an inventory of all real property owned by the State.***

~~[6.]~~ ***4.*** ***The Chief shall post on an Internet website maintained by the State a list of all*** *~~[properties]~~* ***real property owned or leased by the State. Each such listing shall include, without limitation, a brief description of:***

(a) The location, size and current use of the real property; and

(b) The terms of the lease, including, without limitation, the cost to the State.

[2.**]** *~~[7. The provisions of]~~* **[**~~subsection 1~~**]** *~~[this section do not apply to state officers and employees of boards that are exempt from the provisions of chapter 353 of NRS pursuant to NRS 353.005.]~~*

Sec. 2. NRS 463.100 is hereby amended to read as follows:

463.100 1. The Board shall keep its main office at Carson City, Nevada, in conjunction with the Commission in rooms provided by the Buildings and Grounds Division of the Department of Administration.

2. The Board may, in its discretion, maintain a branch office in Las Vegas, Nevada, or at any other place in this State as the Chair of the Board deems necessary for the efficient operation of the Board. *~~[The Chair of the Board may enter into such leases or other agreements as may be necessary to establish a branch office. The]~~* ***Any*** ***leases or agreements entered into***

pursuant to this subsection must be executed in accordance with the provisions of NRS 331.110.

Sec. 3. NRS 480.160 is hereby amended to read as follows:

480.160 1. The Department shall keep its main office at Carson City, Nevada, in rooms provided by the Buildings and Grounds Division of the Department of Administration.

2. The Department may maintain such branch offices throughout the State as the Director deems necessary for the efficient operation of the Department and the various divisions thereof. ~~[The Director may enter into such leases or other agreements as may be necessary to establish such branch offices. *The]*~~ ***Any leases or agreements entered into pursuant to this subsection must be executed in accordance with the provisions of NRS 331.110.***

Sec. 4. NRS 481.055 is hereby amended to read as follows:

481.055 1. The Department shall keep its main office at Carson City, Nevada, in rooms provided by the Buildings and Grounds Division of the Department of Administration.

2. The Department may maintain such branch offices throughout the State as the Director may deem necessary to the efficient operation of the Department and the various divisions thereof. ~~[The Director is authorized, on behalf of the Department, to enter into such leases or other agreements as may be necessary to the establishment of such branch offices. *The]*~~ ***Any leases or agreements entered into pursuant to this subsection must be executed in accordance with the provisions of NRS 331.110.***

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

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 406 be taken from the General File and placed at the bottom of the General File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 420.

Bill read second time.

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

Amendment No. 262.

AN ACT relating to the Nevada National Guard; providing for the confidentiality of personal information in certain documents recorded with a county recorder by a member of the Nevada National Guard; revising provisions governing the termination of employment of a member of the

Nevada National Guard; prohibiting ~~[the commencement of civil actions against]~~ a member of the Nevada National Guard **from being served a summons for, or notice of, a civil action or administrative proceeding against him or her** during certain periods; **postponing such an action or proceeding during certain periods;** providing for a preference for certain employment with the government of this State for members of the Nevada National Guard; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the protection of personal information in recorded documents and for the access to such personal information by specified persons upon the death of the person whose personal information is at issue. (NRS 239B.030, 247.090) **Section 1** of this bill expressly provides for the confidentiality of personal information of a member of the Nevada National Guard contained in specified documents recorded with a county recorder, and allows access to that personal information by certain authorized persons.

Existing law prohibits the termination of the employment of a member of the Nevada National Guard and provides for the member's reinstatement after termination if the termination is because of certain active duty or service by the member. (NRS 412.139, 412.1395) **Sections 2 and 3** of this bill expand this prohibition against termination and this right of reinstatement to cover situations in which the termination of employment is because of the member's participation in required training, duty and meetings.

Existing law prohibits the arrest on civil process of a member of the Nevada National Guard while the member is at a location for military duty or traveling to or from that location. (NRS 412.154) **Section 4** of this bill **: (1)** prohibits the ~~[commencement]~~ **serving of a summons for, or notice** of **,** a civil action or **administrative** proceeding against ~~[the]~~ **a** member ~~[while]~~ **of the Nevada National Guard during any period in which** the member assembles for training or participates in field training, active duty **training** or active service **,** or travels to or from that duty, service or training ~~.~~ ~~[.]~~ **; and (2) stays (postpones) the civil action or administrative proceeding against the member during that same period.**

Existing law provides a preference in hiring for certain public employment for veterans of the Armed Forces of the United States. (NRS 284.260) **Section 5** of this bill provides a similar preference for members of the Nevada National Guard.

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

Section 1. Chapter 412 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this subsection and NRS 239B.030 and 247.090, a county recorder shall ensure that any personal information of a member of the Nevada National Guard contained in any document which is related to the member's military service and is recorded, filed or otherwise submitted to the county recorder by or on behalf of the member is maintained in a confidential manner. The county recorder may disclose the personal information to any person designated in writing by the member or, upon the member's death, by a person authorized by subsection 2 of NRS 247.090 to inspect and copy the document containing the personal information.

2. As used in this section, "personal information" has the meaning ascribed to it in NRS 603A.040.

Sec. 2. NRS 412.139 is hereby amended to read as follows:

412.139 1. An employer may not terminate the employment of a member of the Nevada National Guard because the member ~~[is]~~ ***:***

(a) Assembles for training, participates in field training or active duty or otherwise meets as required pursuant to NRS 412.118; or

(b) Is ordered to active service or duty pursuant to NRS 412.122 or 412.124.

2. Any employer who violates subsection 1 is guilty of a misdemeanor.

3. In addition to any other remedy or penalty, the Labor Commissioner may impose against the employer an administrative penalty of not more than $5,000 for each such violation.

Sec. 3. NRS 412.1395 is hereby amended to read as follows:

412.1395 If the employment of a member of the Nevada National Guard is found to have been terminated as a result of the member ~~[being]~~ ***:***

1. Assembling for training, participating in field training or active duty or otherwise meeting as required pursuant to NRS 412.118; or

2. Being ordered to active service or duty pursuant to NRS 412.122 or 412.124,

➥ the member is entitled to be immediately reinstated to his or her position without loss of seniority or benefits, and to receive all wages and benefits lost as a result of the termination.

Sec. 4. NRS 412.154 is hereby amended to read as follows:

412.154 1. Members of the Nevada National Guard ordered into active service of the State pursuant to this chapter are not liable civilly or criminally for any act done by them in the performance of their duty. When an action or proceeding of any nature is commenced in any court by any person against any officer of the militia for any act done by the officer in his or her official capacity in the discharge of any duty pursuant to this chapter, or an alleged omission by the officer to do an act which it was his or her duty to perform, or against any person acting pursuant to the authority or order of such an officer, or by virtue of any warrant issued by the officer pursuant to law, the defendant:

(a) May have counsel of his or her own selection, with the cost of such counsel to be borne by the defendant; or

(b) Must be defended by the Attorney General in civil actions and by the State Judge Advocate in criminal actions, with the cost of such counsel to be paid out of the Reserve for Statutory Contingency Account upon approval by the State Board of Examiners unless the defendant was found to have been criminally negligent or to have acted wantonly or maliciously, in which case the cost of such counsel must be borne by the defendant,

➥ and may require the person instituting or prosecuting the action or proceeding to file security for the payment of costs that may be awarded to the defendant therein.

2. A defendant in whose favor a final judgment is rendered in an action or a final order is made in a special proceeding shall recover his or her costs.

3. No member of the Nevada National Guard may be arrested on any civil process while going to, remaining at, or returning from any place at which he or she is required to attend for military duty.

4. A person may not ~~[commence]~~ serve a summons for, or notice of, a civil action or administrative proceeding against a member of the Nevada National Guard , and any such action or proceeding must be postponed, stayed or delayed, during any period in which the member:

(a) Assembles for training, participates in field training or active duty training, or otherwise meets as required pursuant to NRS 412.118;

(b) ~~[Is ordered to]~~ Begins active service or duty upon the ordered date of reporting pursuant to NRS 412.122 or 412.124; or

(c) Is going to or returning from any duty, service or training specified in paragraph (a) or (b).

Sec. 5. NRS 284.260 is hereby amended to read as follows:

284.260 1. In establishing the lists of eligible persons, certain preferences must be allowed for ~~[~~veterans~~]~~ ***:***

(a) Veterans not dishonorably discharged from the Armed Forces of the United States. For veterans with disabilities, 10 points must be added to the passing grade achieved on the examination. For ex-servicemen and women who have not suffered disabilities, and for the widows and widowers of veterans, 5 points must be added to the passing grade achieved on the examination.

(b) Members of the Nevada National Guard. For a member of the Nevada National Guard who submits a letter of recommendation from the commanding officer of the member's unit, 5 points must be added to the passing grade achieved on the examination.

2. Any person qualifying for preference points pursuant to subsection 1 is entitled to have the points applied to any open competitive examination in the classified service, but only to one promotional examination.

3. For the purposes of this section, "veteran" has the meaning ascribed to "eligible veteran" in 38 U.S.C. § 4211.

Sec. 6. This act becomes effective on July 1, 2011.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 536.

Bill read second time.

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

Amendment No. 522.

AN ACT relating to the protection of children; requiring an investigation of the criminal history of certain persons associated with certain facilities that provide residential services to children; requiring such a facility to terminate the employment of or remove from the facility certain persons based on the results of an investigation of the person's criminal history; requiring ~~[such a facility to maintain]~~ **the maintenance of** records concerning **the** employees and residents of the facility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain types of facilities which provide residential services to children are required to obtain background investigations for holders of licenses, employees and certain residents of the facility, including, without limitation, foster homes and child care facilities. (NRS 424.031, 432A.170) Existing law does not require similar background investigations to be conducted for holders of licenses and employees of other types of facilities which provide residential services to children, including, without limitation, juvenile justice facilities, facilities that provide mental health treatment to children, and other medical and related facilities which provide residential services to children. (Chapters 62B and 433B of NRS, NRS 449.176, 449.179) This bill prescribes, to the extent applicable, standard requirements for background investigations, records of background investigations, supervision of persons pending background investigations and termination of the employment of persons who have committed certain crimes.

Sections 2-6 of this bill prohibit a person from having unsupervised contact with a child pending the outcome of his or her background investigation and require foster homes to terminate the employment of an employee or remove a resident who is over 18 years of age if the person has been convicted of a crime prescribed in **section 4**. **Sections 2-6** also require foster homes to maintain certain records relating to background investigations which are conducted for employees and residents of the homes. A background investigation must be conducted every 5 years after the initial investigation.

Sections 8-10 of this bill require child care facilities to maintain certain records for certain employees, residents and participants of the facilities and

prohibit unsupervised contact with a child pending the results of a background investigation. A background investigation must be conducted every 5 years after the initial investigation.

Sections 12-14 of this bill require **the employees of** public or private institutions and agencies to which a juvenile court commits a child to ~~[conduct]~~ **receive** background investigations **.** ~~[of all employees of the institution or agency.]~~ **Sections 12-14** also prohibit a person from having unsupervised contact with a child pending the outcome of his or her background investigation and require institutions and agencies to terminate the employment of employees who have been convicted of a crime prescribed in **section 12**. **Sections 12-14** further require ~~[institutions and agencies to maintain]~~ **the maintenance of** certain records relating to the background investigations which are conducted for employees. A background investigation must be conducted every 5 years after the initial investigation.

Sections 17-19 of this bill require certain facilities which provide residential mental health treatment to children to conduct background investigations of all employees of the facility. **Sections 17-19** also prohibit a person from having unsupervised contact with a child pending the outcome of his or her background investigation and require such facilities to terminate the employment of employees who have been convicted of a crime prescribed in **section 17**. **Sections 17-19** also require those facilities to maintain certain records relating to the background investigations which are conducted for employees. A background investigation must be conducted every 5 years after the initial investigation.

Under existing law, each applicant for a license to operate and each employee of a facility for intermediate care, facility for skilled nursing, residential facility for groups, agency to provide personal care services in the home or home for individual residential care must submit to a background investigation. (NRS 449.173-449.188) These provisions specifically exclude a facility for the treatment of abuse of alcohol or drugs under existing law. **Sections 20-24** of this bill include other medical facilities and facilities for the treatment of abuse of alcohol or drugs if those facilities provide residential services to children. **Sections 20-24** also amend provisions relating to unsupervised contact with children and the maintenance of records to be consistent with this bill.

Section 25 of this bill requires persons who are required to submit to background investigations pursuant to the amendatory provisions of this bill to submit to such investigations on or before October 1, 2011, and authorizes such persons to have contact with children without supervision pending the results of the investigation.

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. Upon receiving information from the licensing authority or its designee pursuant to NRS 424.033 or evidence from any other source that an employee of an applicant for a license to conduct a foster home or a person who is licensed to conduct a foster home or a resident of an applicant or licensee who is 18 years of age or older has been convicted of a crime listed in NRS 424.031, the applicant or licensee shall terminate the employment of the employee or remove the resident from the foster home after allowing the employee or resident time to correct the information as required pursuant to subsection 2.***

2. If an employee or resident believes that the information provided pursuant to subsection 1 is incorrect, the employee or resident must inform the applicant or licensee immediately. An applicant or licensee that is so informed shall give the employee or resident 30 days to correct the information.

3. During the period in which an employee or resident seeks to correct information pursuant to subsection 2, it is within the discretion of the applicant or licensee whether to allow the employee or resident to continue to work for or reside at the foster home, as applicable, except that the employee or resident shall not have contact with a child in the foster home without supervision during any such period.

Sec. 3. ***1. Each applicant for a license to conduct a foster home and each person licensed to conduct a foster home shall maintain records of the information concerning its employees and any residents of the foster home who are 18 years of age or older that is collected pursuant to NRS 424.031 and 424.033 and section 2 of this act, including, without limitation:***

(a) A copy of the fingerprints that were submitted to the Central Repository for Nevada Records of Criminal History and a copy of the written authorization that was provided by the employee or resident;

(b) Proof that the fingerprints of the employee or resident were submitted to the Central Repository; and

(c) Any other documentation of the information collected pursuant to NRS 424.031 and 424.033 and section 2 of this act.

2. The records maintained pursuant to subsection 1 must be:

(a) Maintained for the period of the employee's employment with or resident's presence at the foster home; and

(b) Made available for inspection by the licensing authority or its approved designee at any reasonable time, and copies thereof must be furnished to the licensing authority upon request.

Sec. 4. NRS 424.031 is hereby amended to read as follows:

424.031 1. The licensing authority or a person or entity designated by the licensing authority shall obtain from appropriate law enforcement agencies information on the background and personal history of each

applicant for a license to conduct a foster home, ~~[~~prospective~~]~~ ***person who is licensed to conduct a foster home,*** employee of that applicant or ~~[~~of a person who is licensed to conduct a foster home,~~]~~ ***licensee,*** and resident of a foster home who is 18 years of age or older, to determine whether the person investigated has been arrested for or convicted of ~~[~~any crime.~~]~~ ***:***

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use of a firearm or other deadly weapon;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(e) Abuse or neglect of a child or contributory delinquency;

(f) 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;

(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

2. The licensing authority or its approved designee may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

3. Unless a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history has been conducted pursuant to NRS 424.039, a person who is required to submit to an investigation pursuant to this section shall not have contact with a child in a foster home without supervision before the investigation of the background and personal history of the person has been conducted.

4. The licensing authority or its designee shall conduct an investigation of each employee and resident pursuant to this section at least once every 5 years after the initial investigation.

Sec. 5. NRS 424.033 is hereby amended to read as follows:

424.033 1. Each applicant for a license to conduct a foster home, ~~[~~prospective~~]~~ ***person who is licensed to conduct a foster home,*** employee of that applicant or ~~[~~of a person who is licensed to conduct a foster home,~~]~~ ***licensee,*** or resident of a foster home who is 18 years of age or older must submit to the licensing authority or its approved designee:

(a) A complete set of fingerprints and written permission authorizing the licensing authority or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report to enable the

licensing authority or its approved designee to conduct an investigation pursuant to NRS 424.031; and

(b) Written permission to conduct a child abuse and neglect screening.

2. For each person who submits the documentation required pursuant to subsection 1, the licensing authority or its approved designee shall conduct a child abuse and neglect screening of the person in every state in which the person has resided during the immediately preceding 5 years.

3. The licensing authority or its approved designee may exchange with the Central Repository or the Federal Bureau of Investigation any information respecting the fingerprints submitted.

4. The Division shall assist the licensing authority of another state that is conducting a child abuse and neglect screening of a person who has resided in this State by providing information which is necessary to conduct the screening if the person who is the subject of the screening has signed a written permission authorizing the licensing authority to conduct a child abuse and neglect screening. The Division may charge a fee for providing such information in an amount which does not exceed the actual cost to the Division to provide the information.

5. When a report from the Federal Bureau of Investigation is received by the Central Repository, it shall immediately forward a copy of the report to the licensing authority or its approved designee.

6. Upon receiving a report pursuant to this section, the licensing authority or its approved designee shall determine whether the person has been convicted of a crime listed in NRS 424.031.

7. The licensing authority shall immediately inform the applicant for a license to conduct a foster home or the person who is licensed to conduct a foster home whether an employee or resident of the foster home has been convicted of a crime listed in NRS 424.031.

8. The licensing authority may deny an application for a license to operate a foster home or may suspend or revoke such a license if the licensing authority determines that the applicant or licensee has been convicted of a crime listed in NRS 424.031 or has failed to terminate an employee or remove a resident of the foster home who is 18 years of age or older and has been convicted of any crime listed in NRS 424.031.

Sec. 6. NRS 424.090 is hereby amended to read as follows:

424.090 The provisions of NRS 424.020 to 424.090, inclusive, ***and sections 2 and 3 of this act*** do not apply to homes in which:

1. Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.

2. Care is provided by the legal guardian.

3. Care is provided for an exchange student.

4. Care is provided to enable a child to take advantage of educational facilities that are not available in his or her home community.

5. Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.

6. Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is:

(a) Related to the caregiver by blood, adoption or marriage; and

(b) Not in the custody of an agency which provides child welfare services.

7. Care is provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS if:

(a) The caregiver is related to the child within the fifth degree of consanguinity; and

(b) The caregiver is not licensed pursuant to the provisions of NRS 424.020 to 424.090, inclusive ~~[.]~~ ***, and sections 2 and 3 of this act.***

Sec. 7. NRS 432.0125 is hereby amended to read as follows:

432.0125 1. The Administrator shall appoint, with the approval of the Director, a chief of each of the bureaus in the Division. The chiefs are designated respectively as:

(a) The Superintendent of the Nevada Youth Training Center;

(b) The Superintendent of the Caliente Youth Center;

(c) The Chief of the Bureau of Services for Child Care; and

(d) The Chief of the Youth Parole Bureau.

2. The Administrator is responsible for the administration, through the Division, of the provisions of chapters 63 and 424 of NRS, NRS 127.220 to 127.310, inclusive, 432.010 to 432.085, inclusive, and 433B.010 to 433B.350, inclusive, ***and sections 17, 18 and 19 of this act*** and all other provisions of law relating to the functions of the Division, but is not responsible for the professional activities of the components of the Division except as specifically provided by law.

Sec. 8. NRS 432A.170 is hereby amended to read as follows:

432A.170 1. The Bureau may, upon receipt of an application for a license to operate a child care facility, conduct an investigation into the:

(a) Buildings or premises of the facility and, if the application is for an outdoor youth program, the area of operation of the program;

(b) Qualifications and background of the applicant or the employees of the applicant;

(c) Method of operation for the facility; and

(d) Policies and purposes of the applicant.

2. The Bureau shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, to determine whether the person has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use of a firearm or other deadly weapon;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(e) Abuse or neglect of a child or contributory delinquency;

(f) 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;

(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

3. The Bureau shall request information concerning every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, from ~~[~~the~~]~~ ***:***

(a) The Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report ~~[;]~~ ***pursuant to NRS 432A.175; and***

(b) The Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against any of them.

4. The Bureau may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

5. The information required to be obtained pursuant to subsections 2 and 3 must be requested concerning an:

(a) Employee of an applicant or licensee, resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older not later than 3 days after the employee is hired, the residency begins or the participant begins participating in the program, and then at least once every ~~[~~6~~]~~ ***5*** years thereafter.

(b) Applicant at the time that an application is submitted for licensure, and then at least once every ~~[~~6~~]~~ ***5*** years after the license is issued.

6. A person who is required to submit to an investigation required pursuant to this section shall not have contact with a child in a child care facility without supervision before the investigation of the background and personal history of the person has been conducted.

Sec. 9. NRS 432A.1755 is hereby amended to read as follows:

432A.1755 1. Upon receiving information pursuant to NRS 432A.175 from the Central Repository for Nevada Records of Criminal History or the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 or

evidence from any other source that an employee of an applicant for a license to operate a child care facility or a licensee, or a resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him or her, the applicant or licensee shall terminate the employment of the employee or remove the resident from the facility or participant from the outdoor youth program after allowing the employee, resident or participant time to correct the information as required pursuant to subsection 2.

2. If an employee, resident or participant believes that the information provided to the applicant or licensee pursuant to subsection 1 is incorrect, the employee, resident or participant must inform the applicant or licensee immediately. The applicant or licensee shall give any such employee, resident or participant 30 days to correct the information.

3. During any period in which an employee, resident or participant seeks to correct information pursuant to subsection 2, it is within the discretion of the applicant or licensee whether to allow the employee, resident or participant to continue to work for or reside at the child care facility or participate in the outdoor youth program, as applicable ~~[.]~~ ***, except that the employee, resident or participant shall not have contact with a child without supervision during such a period.***

Sec. 10. NRS 432A.1785 is hereby amended to read as follows:

432A.1785 1. Each applicant for a license to operate a child care facility and licensee shall maintain records of the information concerning its employees and any residents of the child care facility or participants in any outdoor youth program who are 18 years of age or older that is collected pursuant to NRS 432A.170 and 432A.175, including, without limitation:

(a) ***A copy of the fingerprints that were submitted to the Central Repository for Nevada Records of Criminal History;***

(b) Proof that the applicant or licensee submitted fingerprints to the Central Repository ***;*** ~~[for its report;]~~ and

~~[(b)]~~ ***(c)*** The written authorization to obtain information from the ***Central Repository and the*** Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

2. The records maintained pursuant to subsection 1 must be ~~[made]~~ ***:***

(a) Maintained for the period of the employee's employment with or the resident's presence at the child care facility or the participant's presence in the outdoor youth program; and

(b) Made available for inspection by the Bureau at any reasonable time ~~[,]~~ and copies thereof must be furnished to the Bureau upon request.

Sec. 11. Chapter 62B of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[12, 13 and]~~ **11.5 to** 14 **, inclusive,** of this act.

Sec. 11.5. As used in sections 11.5 to 14, inclusive, of this act, "licensing authority" means the governmental entity which licenses and

regulates a private institution to which a juvenile court commits a child, including without limitation, a facility for the detention of children.

Sec. 11.7. ***The provisions of sections 11.5 to 14, inclusive, of this act do not apply to a private institution to which a juvenile court commits a child, including without limitation, a facility for the detention of children, if the private institution is required to comply with similar requirements as a condition for licensure in this State.***

Sec. 12. ***1. A public [or private] institution or agency to which a juvenile court commits a child [,] or the licensing authority of a private institution to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall secure from appropriate law enforcement agencies information on the background and personal history of each employee of the institution or agency to determine whether the employee has been convicted of:***

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use of a firearm or other deadly weapon;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(e) Abuse or neglect of a child or contributory delinquency;

(f) 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;

(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

2. An employee of the public or private institution or agency must submit to the public institution or agency [, to enable the institution or agency to conduct an investigation pursuant to subsection 1,] or the licensing authority, as applicable, two complete sets of fingerprints and written authorization to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. The public institution or agency or the licensing authority, as applicable may exchange with the Central Repository or the Federal Bureau of Investigation any information concerning the fingerprints submitted.

4. The public institution or agency or the licensing authority, as applicable, may charge an employee investigated pursuant to this section for the reasonable cost of that investigation.

5. When a report from the Federal Bureau of Investigation is received by the Central Repository, the Central Repository shall immediately forward a copy of the report to the public institution or agency [.] or the licensing authority, as applicable, for a determination of whether the employee has been convicted of a crime listed in subsection 1.

6. A person who is required to submit to an investigation required pursuant to this section shall not have contact with a child without supervision in a public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, before the investigation of the background and personal history of the person has been conducted.

7. The public institution or agency or the licensing authority, as applicable, shall conduct an investigation of each employee of the institution or agency pursuant to this section at least once every 5 years after the initial investigation.

Sec. 13. *1. Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to section 12 of this act or evidence from any other source that an employee of a public [or private] institution or agency to which a juvenile court commits a child [,] or the licensing authority of a private institution to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, has been convicted of a crime listed in section 12 of this act [, the] :*

(a) The public institution or agency shall terminate the employment of the employee after allowing the employee time to correct the information as required pursuant to subsection 2 [.] ; or

(b) The licensing authority of the private institution shall inform the private institution of the receipt of the information or evidence, and the institution shall terminate the employment of the employee after allowing the employee time to correct the information as required pursuant to subsection 2.

2. If an employee believes that the information provided to the public institution or agency or the licensing authority by the Central Repository pursuant to [subsection 1] section 12 of this act is incorrect, the employee must inform [the] his or her employing institution or agency immediately. An institution or agency that is so informed shall give the employee a reasonable amount of time of not less than 30 days to correct the information.

3. During the period in which an employee seeks to correct information pursuant to subsection 2, it is within the discretion of the employing institution or agency whether to allow the employee to continue to work for the institution or agency, as applicable, except that the employee shall not have contact with a child in the institution or agency without supervision during such period.

Sec. 14. ***1. Each public [or private] institution or agency to which a juvenile court commits a child [,] and each licensing authority of a private institution to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, and each licensing agency shall maintain accurate records of the information concerning an employee collected pursuant to sections 12 and 13 of this act for the period of the employee's employment with [the] his or her employing institution or agency, including, without limitation:***

(a) A copy of the fingerprints that were submitted to the Central Repository and a copy of the written authorization that was provided by the employee;

(b) Proof that the fingerprints of the employee were submitted to the Central Repository; and

(c) Any other documentation of the information collected pursuant to sections 12 and 13 of this act.

2. The records maintained pursuant to subsection 1 must be:

(a) Maintained for the period of the employee's employment with [the] his or her employing institution or agency; and

(b) Made available for inspection by the Division of Child and Family Services at any reasonable time, and copies thereof must be furnished to the Division upon request.

Sec. 15. NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department,

➥ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so

notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS ***424.031,*** 427A.735 ***, 432A.170*** and 449.179 ~~[,]~~ ***and sections 12 and 17 of this act;*** or

(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➥ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

➥ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

➥ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has fingerprints submitted pursuant to NRS ***424.031,*** 427A.735, ***432A.170,*** 449.176 or 449.179 ~~[.]~~ ***or sections 12 or 17 of this act.***

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 16. Chapter 433B of NRS is hereby amended by adding thereto the provisions set forth as sections 17, 18 and 19 of this act.

Sec. 17. ***1. A division facility which provides residential treatment to children shall secure from appropriate law enforcement agencies information on the background and personal history of an employee of the facility to determine whether the employee has been convicted of:***

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use of a firearm or other deadly weapon;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(e) Abuse or neglect of a child or contributory delinquency;

(f) 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;

(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

2. An employee must submit to the Division two complete sets of fingerprints and written authorization to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. The Division may exchange with the Central Repository or the Federal Bureau of Investigation any information concerning the fingerprints submitted.

4. The Division may charge an employee investigated pursuant to this section for the reasonable cost of that investigation.

5. An employee who is required to submit to an investigation required pursuant to this section shall not have contact with a child in a division facility without supervision before the investigation of the background and personal history of the employee has been conducted.

6. The division facility shall conduct an investigation of each employee pursuant to this section at least once every 5 years after the initial investigation.

Sec. 18. *1. Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to section 17 of this act or evidence from any other source that an employee of a division facility that provides residential treatment for children has been convicted of a crime listed in section 17 of this act, the administrative officer shall terminate the employment of the employee after allowing the employee time to correct the information as required pursuant to subsection 2.*

2. If an employee believes that the information provided to the division facility pursuant to subsection 1 is incorrect, the employee must inform the division facility immediately. A division facility that is so informed shall give the employee 30 days to correct the information.

3. During the period in which an employee seeks to correct information pursuant to subsection 2, it is within the discretion of the administrative officer whether to allow the employee to continue to work for the division facility, except that the employee shall not have contact with a child in the division facility without supervision during such period.

Sec. 19. *1. The Division shall maintain accurate records of the information concerning an employee of a division facility collected*

pursuant to sections 17 and 18 of this act for the period of the employee's employment with a division facility, including, without limitation:

(a) A copy of the fingerprints that were submitted to the Central Repository for Nevada Records of Criminal History and a copy of the written authorization that was provided by the employee;

(b) Proof that the fingerprints of the employee were submitted to the Central Repository for submission to the Federal Bureau of Investigation for its report; and

(c) Any other documentation of the information collected pursuant to sections 17 and 18 of this act.

2. The records maintained pursuant to subsection 1 must be maintained for the period of the employee's employment with the division facility.

Sec. 20. NRS 449.173 is hereby amended to read as follows:

449.173 ~~[The]~~

1. Except as otherwise provided in subsection 2, the provisions of NRS 449.176 to 449.188, inclusive, do not apply to any facility for the treatment of abuse of alcohol or drugs.

2. A facility for the treatment of abuse of alcohol or drugs must comply with the requirements of NRS 449.176 to 449.188, inclusive, if the facility for the treatment of abuse of alcohol or drugs provides residential services to children.

Sec. 21. NRS 449.176 is hereby amended to read as follows:

449.176 1. Each applicant for a license to operate a facility for intermediate care, facility for skilled nursing, residential facility for groups, agency to provide personal care services in the home or home for individual residential care ***or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs*** shall submit to the Central Repository for Nevada Records of Criminal History two complete sets of fingerprints for submission to the Federal Bureau of Investigation for its report.

2. The Central Repository for Nevada Records of Criminal History shall determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188 and immediately inform the administrator of the facility, agency or home, if any, and the Health Division of whether the applicant has been convicted of such a crime.

3. A person who holds a license to operate an agency, a facility or a home which provides residential services to children shall submit to the Central Repository for Nevada Records of Criminal History two complete sets of fingerprints for a report required by this section at least once every 5 years after the initial investigation.

Sec. 22. NRS 449.179 is hereby amended to read as follows:

449.179 1. Except as otherwise provided in subsection 2, within 10 days after hiring an employee or entering into a contract with an independent contractor, the administrator of, or the person licensed to operate, an agency

to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a residential facility for groups or a home for individual residential care ***or, if residential services are provided to children, a medical facility or a facility for the treatment of abuse of alcohol or drugs*** shall:

(a) Obtain a written statement from the employee or independent contractor stating whether he or she has been convicted of any crime listed in NRS 449.188;

(b) Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);

(c) Obtain from the employee or independent contractor two sets of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(d) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c) ~~[.]~~ ***to obtain information on the background and personal history of each employee or independent contractor to determine whether the person has been convicted of any crime listed in NRS 449.188.***

2. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a residential facility for groups or a home for individual residential care ***or, if residential services are provided to children, a medical facility or a facility for the treatment of abuse of alcohol or drugs*** is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that an investigation of his or her ~~[criminal]~~ ***background and personal*** history has been conducted by the Central Repository for Nevada Records of Criminal History within the immediately preceding 6 months and the investigation did not indicate that the employee or independent contractor had been convicted of any crime set forth in NRS 449.188.

3. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a residential facility for groups or a home for individual residential care ***or, if residential services are provided to children, a medical facility or a facility for the treatment of abuse of alcohol or drugs*** shall ensure that the ~~[criminal]~~ ***information concerning the background and personal*** history of each employee or independent contractor who works at the agency or facility ~~[is investigated at]~~ ***:***

(a) Is completed as soon as practicable, and if residential services are provided to children, before the employee or independent contractor provides any care or services to a child in the agency, facility or home without supervision; and

(b) At least once every 5 years ~~[.]~~ ***thereafter.***

4. The administrator or person shall:

(a) If the agency, facility or home does not have the fingerprints of the employee or independent contractor on file, obtain two sets of fingerprints from the employee or independent contractor;

(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints on file or obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.

~~[4.]~~ ***5.*** Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall determine whether the employee or independent contractor has been convicted of a crime listed in NRS 449.188 and immediately inform the Health Division and the administrator of, or the person licensed to operate, the agency, facility or home at which the person works whether the employee or independent contractor has been convicted of such a crime.

~~[5.]~~ ***6.*** The Central Repository for Nevada Records of Criminal History may impose a fee upon an agency, a facility or a home that submits fingerprints pursuant to this section for the reasonable cost of the investigation. The agency, facility or home may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the agency, facility or home requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.

Sec. 23. NRS 449.182 is hereby amended to read as follows:

449.182 ***1.*** Each agency to provide personal care services in the home, agency to provide nursing in the home, facility for intermediate care, facility for skilled nursing, residential facility for groups and home for individual residential care ***and, if residential services are provided to children, a medical facility and facility for the treatment of abuse of alcohol or drugs*** shall maintain ~~[accurate]~~ records of the information concerning its employees and independent contractors collected pursuant to NRS 449.179 ~~[and shall maintain a]~~ ***, including, without limitation:***

(a) A copy of the fingerprints ***that were*** submitted to the Central Repository for Nevada Records of Criminal History ~~[and proof]~~ ***and a copy of the written authorization that was provided by the employee;***

(b) Proof that ~~[it submitted two sets of]~~ ***the*** fingerprints ***of the employee were submitted*** to the Central Repository ~~[for its report. These]~~ ***; and***

(c) Any other documentation of the information collected pursuant to NRS 449.179.

2. The records ***maintained pursuant to subsection 1*** must be ~~[made]~~ ***:***

(a) Maintained for the period of the employee's employment with the agency, facility or home; and

(b) Made available for inspection by the Health Division at any reasonable time, and copies thereof must be furnished to the Health Division upon request.

Sec. 24. NRS 449.185 is hereby amended to read as follows:

449.185 1. Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to NRS 449.179, or evidence from any other source, that an employee or independent contractor of an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a residential facility for groups or home for individual residential care ***or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs*** has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188, the administrator of, or the person licensed to operate, the agency, facility or home shall terminate the employment or contract of that person after allowing him or her time to correct the information as required pursuant to subsection 2.

2. If an employee or independent contractor believes that the information provided by the Central Repository is incorrect, the employee or independent contractor may immediately inform the agency, facility or home. An agency, facility or home that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information received from the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.

3. An agency, facility or home that has complied with NRS 449.179 may not be held civilly or criminally liable based solely upon the ground that the agency, facility or home allowed an employee or independent contractor to work:

(a) Before it received the information concerning the employee or independent contractor from the Central Repository ~~[:]~~ ***, except that an employee or independent contractor shall not have contact with a child without supervision before such information is received;***

(b) During ~~[any]~~ ***the*** period required pursuant to subsection 2 to allow the employee or independent contractor to correct that information ~~[:]~~ ***, except that an employee or independent contractor shall not have contact with a child without supervision during such period;***

(c) Based on the information received from the Central Repository, if the information received from the Central Repository was inaccurate; or

(d) Any combination thereof.

➥ An agency, facility or home may be held liable for any other conduct determined to be negligent or unlawful.

Sec. 25. A person who is required to submit to an investigation of his or her background and personal history pursuant to NRS 424.031, as amended

by section 4 of this act, NRS 432A.170, as amended by section 8 of this act, NRS 449.176, as amended by section 21 of this act or NRS 449.179, as amended by section 22 of this act or section 12 or 17 of this act shall submit the documentation and fingerprints required to conduct such an investigation in accordance with the amendatory provisions of this act on or before October 1, 2011, and may have contact with a child without supervision pending the results of the investigation.

Sec. 26. This act becomes effective upon passage and approval for the purpose of conducting investigations pursuant to section 25 of this act and on October 1, 2011, for all other purposes.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Mastroluca moved that upon return from the printer, Assembly Bill No. 536 be rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 542.

Bill read second time.

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

Amendment No. 439.

SUMMARY—Provides for the licensing and operation of **craft** distilleries in Nevada. (BDR 52-649)

AN ACT relating to alcoholic beverages; providing for the licensing and operation of **craft** distilleries in this State; setting forth the conditions under which spirits manufactured at such **craft** distilleries may be sold; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the operation of brew pubs and instructional wine-making facilities. (NRS 597.230, 597.245) Under existing law, facilities such as brew pubs and instructional wine-making facilities must be licensed, a fee is imposed for the license, and a person who engages in business in this State without having the appropriate permit or license for the business is guilty of a misdemeanor. (NRS 360.490, 369.180, 369.300)

This bill: (1) authorizes the operation of **craft** distilleries in Nevada; (2) sets forth the permissible scope of operation for those **craft** distilleries; (3) requires that the **craft** distilleries be licensed; and (4) imposes a licensing fee of $75.

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person may operate a craft distillery if the person:

(a) Obtains a license for the facility pursuant to chapter 369 of NRS;

(b) Complies with the requirements of this section; and

(c) Complies with any other applicable governmental requirements.

2. A person who operates a craft distillery pursuant to this section may:

(a) Manufacture spirits from agricultural raw materials through the process of distillation and ~~[rectify,]~~ blend, age, store and bottle the spirits so manufactured. The person operating the craft distillery shall ensure that:

(1) ~~[At least 50 percent of the agricultural raw materials used to manufacture the spirits are grown in this State;~~

~~(2)]~~ Not more than 10 percent of the spirits manufactured ~~[or rectified]~~ at the craft distillery are derived from neutral spirits manufactured by another distiller; and

~~[(3)]~~ (2) The craft distillery does not manufacture more than 10,000 cases of spirits in any calendar year.

(b) Sell and transport the spirits manufactured at the craft distillery to a person who holds a valid license to engage in business as a wholesale dealer of liquor.

(c) Export the spirits manufactured at the craft distillery to another state.

(d) On the premises of the craft distillery, serve samples of the spirits manufactured at the craft distillery. Any such samples must not exceed, per person, per day, 1 fluid ounce in volume of each type of spirit manufactured at the craft distillery.

(e) On the premises of the craft distillery, sell the spirits manufactured at the craft distillery at retail for consumption off premises. Any such spirits sold at retail for off-premises consumption must not exceed, per person, per day, 1.75 liters in volume of each type of spirit manufactured at the craft distillery.

~~[~~ ~~(f) At one location not on the premises of the distillery:~~

~~(1) Serve the spirits manufactured at the distillery for consumption by the glass.~~

~~(2) Sell the spirits manufactured at the distillery at retail for consumption off premises. Any such spirits sold at retail for off-premises consumption must not exceed, per person, per day, 1.75 liters in volume of each type of spirit manufactured at the distillery.~~

~~(g) Within or without the boundaries of this State:~~

~~(1) Manufacture spirits under contract for another person or entity.~~

~~(2) Sell spirits manufactured under contract to a person who holds a valid and adequate license to engage in such activity. Spirits sold in accordance with this subparagraph may be sold in bulk, by the barrel or by the bottle.~~

~~*(h) Charge a fee to other persons of legal age for the purpose of providing those persons with instruction and the opportunity to participate directly in the process of making whiskey on the premises of the distillery. The whiskey so made:*~~

~~*(1) Must not exceed, in volume:*~~

~~*(I) One 53-gallon barrel, per person, per year, for each person receiving such instruction.*~~

~~*(II) Two hundred 53-gallon barrels per year, for the distillery at which the instruction is provided.*~~

~~*(2) May be sold only to a person of legal age who has participated directly in the process of making whiskey on the premises of the distillery for the person's own household or personal use. That person may not sell the whiskey but may distribute the whiskey to any other person of legal age as a gift.]*~~ ***Spirits purchased on the premises of a craft distillery may not be resold by the purchaser or any retail liquor store.***

3. As used in this section:

(a) "Case of spirits" means 12 bottles each containing 750 milliliters of distilled spirits.

(b) "Distillation" means the process of producing or purifying spirituous liquor by successive evaporation and condensation.

~~*[(c) "Rectify" means to purify spirituous liquor by repeated or fractional distillation.]*~~

Sec. 2. NRS 597.200 is hereby amended to read as follows:

597.200 As used in NRS 597.190 to 597.250, inclusive, ***and section 1 of this act,*** unless the context otherwise requires:

1. "Alcoholic beverage" means any malt beverage or spirituous, vinous or malt liquor which contains 1 percent or more ethyl alcohol by volume.

2. "Brew pub" means an establishment which manufactures malt beverages and sells those malt beverages at retail pursuant to the provisions of NRS 597.230.

3. ~~*["Distillery"]*~~ ***"Craft distillery" means an establishment which manufactures distilled spirits and is authorized to sell and distribute those distilled spirits pursuant to the provisions of section 1 of this act.***

4. ***"***Engage in" includes participation in a business as an owner or partner, or through a subsidiary, affiliate, ownership equity or in any other manner.

~~[4.]~~ ***5.*** "Instructional wine-making facility" means an instructional wine-making facility operated pursuant to NRS 597.245.

~~[5.]~~ ***6.*** "Legal age" means the age at which a person is legally permitted to purchase an alcoholic beverage pursuant to NRS 202.020.

~~[6.]~~ ***7.*** "Malt beverage" means beer, ale, porter, stout and other similar fermented beverages of any name or description, brewed or produced from malt, wholly or in part.

~~[7.]~~ ***8.*** "Supplier" has the meaning ascribed to it in NRS 597.140.

~~[8.]~~ ***9.*** "Wine" has the meaning ascribed to it in NRS 369.140.

Sec. 3. NRS 597.210 is hereby amended to read as follows:

597.210 1. Except as otherwise provided in NRS 597.240 ~~[,]~~ ***and section 1 of this act,*** a person engaged in business as a supplier or engaged in the business of manufacturing, blending or bottling alcoholic beverages within or without this State shall not engage in the business of importing, wholesaling or retailing alcoholic beverages.

2. This section does not:

(a) Preclude any person engaged in the business of importing, wholesaling or retailing alcoholic beverages from owning less than 2 percent of the outstanding ownership equity in any organization which manufactures, blends or bottles alcoholic beverages.

(b) Prohibit a person engaged in the business of rectifying or bottling alcoholic beverages from importing neutral or distilled spirits in bulk only for the express purpose of rectification pursuant to NRS 369.415.

(c) Prohibit a person from operating a brew pub pursuant to NRS 597.230.

(d) Prohibit a person from operating an instructional wine-making facility pursuant to NRS 597.245.

(e) Prohibit a person from operating a craft distillery pursuant to section 1 of this act.

Sec. 4. NRS 597.220 is hereby amended to read as follows:

597.220 1. ~~[Any]~~ ***Except as otherwise provided in section 1 of this act, a*** person who is engaged in the business of importing or wholesaling alcoholic beverages in the State of Nevada shall not engage in the business of retailing alcoholic beverages in this state.

2. For the purposes of this section, a person who transfers or receives alcoholic beverages in the manner described in NRS 369.4865 must not be considered to be engaged in the business of wholesaling alcoholic beverages based solely upon those transfers.

Sec. 5. NRS 597.250 is hereby amended to read as follows:

597.250 The license of any person who violates the provisions of NRS 597.210, 597.220, 597.230 **,** ~~[or]~~ 597.245 ***or section 1 of this act*** must be suspended or revoked in the manner provided in chapter 369 of NRS.

Sec. 6. Chapter 369 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in this chapter, ~~[“]~~ “craft distillery” has the meaning ascribed to it in NRS 597.200.

Sec. 7. NRS 369.180 is hereby amended to read as follows:

369.180 1. In addition to the limitations imposed by NRS 597.210 and 597.220, a person shall not:

(a) Import liquors into this State unless the person first secures an importer’s license or permit from this State.

(b) Engage in business as a wholesale dealer of wines and liquors in this State unless the person first secures a wholesale wine and liquor dealer’s license from this State.

(c) Engage in business as a wholesale dealer of beer in this State unless the person first secures a wholesale beer dealer's license from this State.

(d) Operate a winery in this State or export wine from this State unless the person first secures a wine-maker's license from this State.

(e) Operate an instructional wine-making facility in this State unless the person first secures a license for the instructional wine-making facility from this State.

(f) Operate a brewery in this State unless the person first secures a brewer's license from this State.

(g) Operate a brew pub in this State unless the person first secures a brew pub's license from this State.

(h) Operate a craft distillery in this State unless the person first secures a craft distiller's license from this State.

2. A person who holds a license for an instructional wine-making facility:

(a) May engage in any activity authorized by NRS 597.245.

(b) May not engage in any other activity for which a license is required pursuant to this chapter, unless the person holds the appropriate license for that activity.

3. ***A person who holds a license for a craft distillery:***

(a) May engage in any activity authorized by section 1 of this act.

(b) May not engage in any other activity for which a license is required pursuant to this chapter, unless the person holds the appropriate license for that activity.

4. As used in this section:

(a) "Brew pub" has the meaning ascribed to it in NRS 597.200.

(b) "Brewery" means an establishment which manufactures malt beverages but does not sell those malt beverages at retail.

(c) "Malt beverage" has the meaning ascribed to it in NRS 597.200.

Sec. 8. NRS 369.300 is hereby amended to read as follows:

369.300 The following is a schedule of fees to be charged for licenses:

Importer's wine, beer and liquor license..... $500
Importer's beer license..... 150
Wholesale wine, beer and liquor license..... 250
Wholesale beer dealer's license..... 75
Wine-maker's license 75
License for an instructional wine-making facility 75
Brew pub's license..... 75
Brewer's license..... 75
~~*[Distiller's]*~~ ***Craft distiller's license…… 75***

Sec. 9. ~~[NRS 369.345 is hereby amended to read as follows:~~

~~369.345 1. No excise tax may be imposed upon wine produced on the premises of an instructional wine-making facility if the wine is used, consumed or disposed of on the premises of the facility or distributed to~~

~~persons for household or personal use in the manner authorized by NRS 597.245.~~

~~2. —*No excise tax may be imposed upon whiskey produced on the premises of a distillery if the whiskey is used, consumed or disposed of on the premises of the facility or distributed to persons for household or personal use in the manner authorized by section 1 of this act.*~~

~~*3.* —If a person pays the tax on any wine *or whiskey* which is exempt from the tax pursuant to this section, the person may obtain a credit or refund with respect to the tax so paid in the manner provided by the Department.~~**]**

(Deleted by amendment.)

Sec. 9.5. **NRS 369.382 is hereby amended to read as follows:**

369.382 Except as otherwise provided in NRS 369.386 and 369.415, ***and section 1 of this act,*** a supplier shall not engage in the business of importing, wholesaling or retailing alcoholic beverages in this State.

Sec. 10. ~~[NRS 369.490 is hereby amended to read as follows:~~

~~369.490 —1. —Except as otherwise provided in subsection 2, a person shall not directly or indirectly, himself or herself or by his or her clerk, agent or employee, offer, keep or possess for sale, furnish or sell, or solicit the purchase or sale of any liquor in this State, or transport or import or cause to be transported or imported any liquor in or into this State for delivery, storage, use or sale therein, unless the person:~~

~~(a) Has complied fully with the provisions of this chapter; and~~

~~(b) Holds an appropriate, valid license, permit or certificate issued by the Department.~~

~~2. —Except as otherwise provided in subsection 3, the provisions of this chapter do not apply to a person:~~

~~(a) Entering this State with a quantity of alcoholic beverage for household or personal use which is exempt from federal import duty;~~

~~(b) Who imports 1 gallon or less of alcoholic beverage per month from another state for his or her own household or personal use;~~

~~(c) Who:~~

~~(1) Is a resident of this State;~~

~~(2) Is 21 years of age or older; and~~

~~(3) Imports 12 cases or less of wine per year for his or her own household or personal use;~~ **[**or**]**

~~(d) Who is lawfully in possession of wine produced on the premises of an instructional wine making facility for his or her own household or personal use and who is acting in a manner authorized by NRS 597.245~~ **[**.**]** ~~*; or*~~

~~*(e) Who is lawfully in possession of whiskey produced on the premises of a distillery in the course of participating directly in the process of making whiskey for his or her own personal use and who is acting in a manner authorized by paragraph (h) of subsection 2 of section 1 of this act.*~~

~~3. —The provisions of subsection 2 do not apply to a supplier, wholesaler or retailer while he or she is acting in his or her professional capacity.~~

~~4. A person who accepts liquor shipped into this State pursuant to paragraph (b) or (c) of subsection 2 must be 21 years of age or older.~~**] (Deleted by amendment.)**

Sec. 11. This act becomes effective upon passage and approval.

Assemblywoman Benitez-Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 74.

Bill read second time.

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

Amendment No. 442.

AN ACT relating to insurance; requiring the Commissioner of Insurance to adopt regulations relating to electronic signatures, records and payments; revising provisions relating to the external review of adverse determinations **of health carriers; [**~~by enacting the National Association of Insurance Commissioners' Uniform Health Carrier External Review Model Act;~~**]** clarifying the circumstances under which an actuary is not liable for damages with respect to the actuary's opinion; authorizing the electronic transmission of fingerprints with an application for a license; revising provisions relating to the licensing of adjusters; revising provisions relating to surplus lines insurance; revising provisions relating to the use of credit information; requiring that certain policies of group insurance be filed with and approved by the Commissioner; revising provisions relating to annuities, pure endowment contracts and policies of life insurance; revising provisions relating to evidence of insurance for motor vehicles; revising provisions relating to disciplinary action by the Commissioner; revising and clarifying provisions relating to employee leasing companies; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides a set of procedures for the external review of an adverse determination by a managed care organization. (NRS 695G.241-695G.310) **Sections 2, 3, 8, 9, [**~~71-118,~~**] 79-118.8, 123-127 and 129-131** of this bill **amend the external review process to comply with the federal Patient Protection and Affordable Care Act (Public Law 111–148) and** enact **[**~~the National Association of Insurance Commissioner's Uniform Health Carrier External Review Model Act and revise various provisions of existing law to conform with the Model Act.~~**] other related provisions necessary to comply with the minimum standards prescribed by federal law.**

Existing law limits the liability of a qualified actuary for damages relating to the actuary's opinion regarding an insurer who offers life insurance. (NRS 681B.250) **Section 6** of this bill clarifies that this limitation of liability

applies not only for life insurance but for any opinion an actuary issues pursuant to chapter 681B of NRS or any regulations adopted thereto.

Existing law requires the Commissioner of Insurance to adopt regulations governing the use of certain electronic methods relating to insurance. (NRS 679B.136, 685A.210) **Sections 1 and 29** of this bill expand the electronic methods that the Commissioner can allow the use of for insurance transactions. Additionally, **sections 10, 11, 20, 44-47 and 122** of this bill allow for the fingerprints required to be submitted with an application for a license pursuant to the Nevada Insurance Code to be submitted electronically.

Existing law requires an applicant for a license as an insurance adjuster to be a resident of this State with certain exceptions. (NRS 684A.070) On December 9, 2009, the United States District Court for the District of Nevada held that the residency requirement to obtain a license as an insurance adjuster violates the Privileges and Immunities Clause of the United States Constitution. (*Reitz v. Kipper*, 674 F.Supp.2d 1194 (D. Nev. 2009)) **Sections 15-26** of this bill revise provisions relating to the licensing of insurance adjusters to remove the residency requirement. **Sections 15-26** also require that an applicant either pass an examination in this State before receiving a license as an insurance adjuster or, if not a resident of this State, be currently licensed in a state that requires an examination before licensure.

Existing law governs trade practices and frauds relating to the insurance business and gives the Commissioner exclusive jurisdiction to regulate trade practices in the insurance business. (Chapter 686A of NRS) **Section 30** of this bill requires an insurer that uses credit information to provide reasonable exceptions to their rates in certain circumstances.

Under existing law, an insurer may not market certain insurance products without first filing the product with the Commissioner and receiving the Commissioner's approval. (NRS 687B.120) **Section 35** of this bill also requires any group insurance policies to be issued pursuant to NRS 688B.030 or 689B.026 to be filed with and approved by the Commissioner before being marketed.

Under existing law, an employee leasing company is deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans. (NRS 616B.691) In 2007, this section was amended to clarify that such a company is also deemed to be the employer for the purposes of the Employee Retirement Income Security Act of 1974 (ERISA). (Chapter 536, Statutes of Nevada 2007, p. 3339) On August 6, 2010, the United States District Court for the District of Nevada held that NRS 616B.691 was preempted by federal law to the extent that it declares the status of any benefit plans for purposes of ERISA. (*Payroll Solutions Group, Ltd. v. Nevada*, No. 02-CV-06-00927-JCM-RJJ (D. Nev. Aug. 6, 2010)) **Section 128** of this bill reverses the changes made to NRS 616B.691 during the 2007 Legislative Session. In addition, **section 128** clarifies that the provisions of subsection 1 of that section apply only for the purposes of

chapters 612 and 616A-617 of NRS. **Section 128** also clarifies that the provisions of subsection 2 of that section do not affect the existing employer-employee relationship between a leased employee and a client company.

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

Section 1. NRS 679B.136 is hereby amended to read as follows:

679B.136 1. The Commissioner shall adopt regulations governing:

(a) The use of electronic signatures, and the acceptance and transmission of electronic records **[**~~, in~~**]** ***and payments, including transactions involving claims and other*** transactions relating to insurance; and

(b) The electronic filing of forms and payment of fees, and the storage and reproduction of records, filed with the Division.

2. As used in this section:

(a) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(b) "Electronic record" means a record created, generated, sent, communicated, received or stored by electronic means.

(c) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(d) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(e) "Transaction" means an action or set of actions occurring between two or more persons relating to the transaction of business, commercial or governmental affairs.

Sec. 2. NRS 679B.240 is hereby amended to read as follows:

679B.240 To ascertain compliance with law, or relationships and transactions between any person and any insurer or proposed insurer, the Commissioner may, as often as he or she deems advisable, examine the accounts, records, documents and transactions relating to such compliance or relationships of:

1. Any insurance agent, solicitor, broker, surplus lines broker, general agent, adjuster, insurer representative, bail agent, motor club agent or any other licensee or any other person the Commissioner has reason to believe may be acting as or holding himself or herself out as any of the foregoing.

2. Any person having a contract under which the person enjoys in fact the exclusive or dominant right to manage or control an insurer.

3. Any insurance holding company or other person holding the shares of voting stock or the proxies of policyholders of a domestic insurer, to control the management thereof, as voting trustee or otherwise.

4. Any subsidiary of the insurer.

5. Any person engaged in this state in, or proposing to be engaged in this state in, or holding himself or herself out in this state as so engaging or

proposing, or in this state assisting in, the promotion, formation or financing of an insurer or insurance holding corporation, or corporation or other group to finance an insurer or the production of its business.

6. Any ~~[external]~~ ***independent*** review organization, as defined in NRS 695G.018.

Sec. 3. NRS 680C.110 is hereby amended to read as follows:

680C.110 1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.

2. A fee required by this section must be:

(a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;

(b) If an annual fee, paid on or before March 1 of every year;

(c) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and

(d) Deposited in the Fund for Insurance Administration and Enforcement created by NRS 680C.100.

3. The fees required pursuant to this section are not refundable.

4. The following fees must be paid by the following persons to the Commissioner:

(a) Associations of self-insured private employers, as defined in NRS 616A.050:

(1) Initial fee $1,300
(2) Annual fee $1,300

(b) Associations of self-insured public employers, as defined in NRS 616A.055:

(1) Initial fee $1,300
(2) Annual fee $1,300

(c) ~~[External]~~ ***Independent*** review organizations, as provided for in NRS 616A.469 or ~~[683A.371,]~~ ***section 8 of this act,*** or both:

(1) Initial fee $60
(2) Annual fee $60

(d) Insurers not otherwise provided for in this subsection:

(1) Initial fee $1,300
(2) Annual fee $1,300

(e) Producers of insurance, as defined in NRS 679A.117:

(1) Initial fee $60
(2) Triennial fee $60

(f) Accredited reinsurers, as provided for in NRS 681A.160:

(1) Initial fee $1,300
(2) Annual fee $1,300

(g) Intermediaries, as defined in NRS 681A.330:

(1) Initial fee $60
(2) Triennial fee $60

(h) Reinsurers, as defined in NRS 681A.370:
(1) Initial fee $1,300
(2) Annual fee $1,300
(i) Administrators, as defined in NRS 683A.025:
(1) Initial fee $60
(2) Triennial fee $60
(j) Managing general agents, as defined in NRS 683A.060:
(1) Initial fee $60
(2) Triennial fee $60
(k) Agents who perform utilization reviews, as defined in NRS 683A.376:
(1) Initial fee $60
(2) Annual fee $60
(l) Insurance consultants, as defined in NRS 683C.010:
(1) Initial fee $60
(2) Triennial fee $60
(m) Independent adjusters, as defined in NRS 684A.030:
(1) Initial fee $60
(2) Triennial fee $60
(n) Public adjusters, as defined in NRS 684A.030:
(1) Initial fee
(2) Triennial fee $60
(o) Associate adjusters, as defined in NRS 684A.030:
(1) Initial fee $60
(2) Triennial fee $60
(p) Motor vehicle physical damage appraisers, as defined in NRS 684B.010:
(1) Initial fee $60
(2) Triennial fee $60
(q) Brokers, as defined in NRS 685A.030:
(1) Initial fee $60
(2) Triennial fee $60
(r) Eligible surplus line insurers, as provided for in NRS 685A.070:
(1) Initial fee $1,300
(2) Annual fee $1,300
(s) Companies, as defined in NRS 686A.330:
(1) Initial fee $1,300
(2) Annual fee $1,300
(t) Rate service organizations, as defined in NRS 686B.020:
(1) Initial fee $1,300
(2) Annual fee $1,300
(u) Brokers of viatical settlements, as defined in NRS 688C.030:
(1) Initial fee $60
(2) Annual fee $60
(v) Providers of viatical settlements, as defined in NRS 688C.080:

(1) Initial fee $60
(2) Annual fee $60
(w) Agents for prepaid burial contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee $60
(2) Triennial fee $60
(x) Agents for prepaid funeral contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee $60
(2) Triennial fee $60
(y) Sellers of prepaid burial contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee $60
(2) Triennial fee $60
(z) Sellers of prepaid funeral contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee $60
(2) Triennial fee $60
(aa) Providers, as defined in NRS 690C.070:
(1) Initial fee $1,300
(2) Annual fee $1,300
(bb) Escrow officers, as defined in NRS 692A.028:
(1) Initial fee $60
(2) Triennial fee $60
(cc) Title agents, as defined in NRS 692A.060:
(1) Initial fee $60
(2) Triennial fee..... $60
(dd) Captive insurers, as defined in NRS 694C.060:
(1) Initial fee $250
(2) Annual fee $250
(ee) Fraternal benefit societies, as defined in NRS 695A.010:
(1) Initial fee $1,300
(2) Annual fee $1,300
(ff) Insurance agents for societies, as provided for in NRS 695A.330:
(1) Initial fee $60
(2) Triennial fee $60
(gg) Corporations subject to the provisions of chapter 695B of NRS:
(1) Initial fee $1,300
(2) Annual fee $1,300
(hh) Health maintenance organizations, as defined in NRS 695C.030:
(1) Initial fee $1,300
(2) Annual fee $1,300
(ii) Organizations for dental care, as defined in NRS 695D.060:

(1) Initial fee $1,300
(2) Annual fee $1,300
(jj) Purchasing groups, as defined in NRS 695E.100:
(1) Initial fee $250
(2) Annual fee $250
(kk) Risk retention groups, as defined in NRS 695E.110:
(1) Initial fee $250
(2) Annual fee $250
(ll) Prepaid limited health service organizations, as defined in NRS 695F.050:
(1) Initial fee $1,300
(2) Annual fee $1,300
(mm) Medical discount plans, as defined in NRS 695H.050:
(1) Initial fee $1,300
(2) Annual fee $1,300
(nn) Club agents, as defined in NRS 696A.040:
(1) Initial fee $60
(2) Triennial fee $60
(oo) Motor clubs, as defined in NRS 696A.050:
(1) Initial fee $1,300
(2) Annual fee $1,300
(pp) Bail agents, as defined in NRS 697.040:
(1) Initial fee $60
(2) Triennial fee $60
(qq) Bail enforcement agents, as defined in NRS 697.055:
(1) Initial fee $60
(2) Triennial fee $60
(rr) Bail solicitors, as defined in NRS 697.060:
(1) Initial fee $60
(2) Triennial fee $60
(ss) General agents, as defined in NRS 697.070:
(1) Initial fee $60
(2) Triennial fee $60

Sec. 3.5. **NRS 681A.022 is hereby amended to read as follows:**

681A.022 "Continuous care coverage" is the issuance of a policy of insurance for workers' compensation, as described in paragraph (c) of subsection 1 of NRS 681A.020, issued jointly with and supplemental to a policy for health insurance, as defined in NRS 681A.030, by one or more insurers covering the same **[**~~individual~~**]** ***employer*** for the same policy period.

Sec. 4. NRS 681A.040 is hereby amended to read as follows:

681A.040 ***1.*** **"**Life insurance" is insurance on human lives. The transaction of life insurance includes the granting of endowment benefits, additional incidental benefits in the event of death or dismemberment by accident or accidental means, additional incidental benefits in the event of the insured's disability, optional modes of settlement of proceeds of life

insurance, and provisions operating to safeguard contracts of life insurance against lapse.

2. The term includes a policy of life insurance which incorporates long-term care insurance if the policy of life insurance may incorporate the long-term care insurance pursuant to section 36 of this act.

Sec. 5. NRS 681B.200 is hereby amended to read as follows:

681B.200 As used in NRS 681B.200 to 681B.260, inclusive, "qualified actuary" means **[**~~a member in good standing of the American Academy of Actuaries, or a successor organization approved by the Commissioner who meets the requirements set forth in the organization's regulations.~~**]** ***a person who is qualified to sign the applicable statement of actuarial opinion in accordance with the qualification standards set by the American Academy of Actuaries for an actuary signing such a statement.***

Sec. 5.5. **NRS 681B.210 is hereby amended to read as follows:**

681B.210 Every insurer **[**~~offering life insurance~~**]** doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The Commissioner by regulation may further define or enlarge the scope of this opinion.

Sec. 6. NRS 681B.250 is hereby amended to read as follows:

681B.250 1. Except in a case of fraud or willful misconduct, a qualified actuary ***who is appointed by an insurer to issue an opinion pursuant to this chapter or any regulation adopted pursuant thereto*** is not liable for damages to any person other than an affected insurer or the Commissioner for any act, error, omission, decision or conduct with respect to the actuary's opinion.

2. Disciplinary action by the Commissioner against an actuary must be prescribed by regulation by the Commissioner.

Sec. 7. Chapter 683A of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. ***1. An independent review organization must be approved by the Commissioner to be eligible to be assigned to conduct external reviews.***

2. In order to be eligible for approval or reapproval by the Commissioner to conduct external reviews, an independent review organization:

(a) Except as otherwise provided in this section, must be accredited by a nationally recognized private accrediting entity which the Commissioner has determined has standards for the accreditation of independent review organizations that are equivalent to or exceed the minimum qualifications for independent review organizations established under section 9 of this act; and

(b) Must submit an application in accordance with subsection 4.

3. The Commissioner shall develop an application form for the initial approval and reapproval of an independent review organization to conduct external reviews.

4. An independent review organization wishing to be approved or reapproved to conduct external reviews must submit the application form and include with the form all documentation and information necessary for the Commissioner to determine if the independent review organization satisfies the minimum qualifications established under section 9 of this act.

5. The Commissioner may approve an independent review organization that is not accredited by a nationally recognized private accrediting entity if there are no acceptable nationally recognized private accrediting entities providing accreditation of independent review organizations.

6. The Commissioner may charge any applicable fee which an independent review organization must submit to the Commissioner with its application for initial approval or reapproval.

7. An approval or reapproval is effective for 2 years unless the Commissioner determines before its expiration that the independent review organization does not satisfy the minimum qualifications established under section 9 of this act.

8. Whenever the Commissioner determines that an independent review organization has lost its accreditation or no longer satisfies the minimum requirements established under section 9 of this act, the Commissioner shall terminate the approval of the independent review organization and remove the independent review organization from the list of independent review organizations approved to conduct external reviews that is maintained by the Commissioner pursuant to subsection 9.

9. The Commissioner shall maintain and periodically update a list of approved independent review organizations.

10. The Commissioner may adopt regulations to carry out the provisions of this section.

11. As used in this section, "independent review organization" has the meaning ascribed to it in NRS 695G.018.

Sec. 9. *1. To be approved under section 8 of this act to conduct external reviews, an independent review organization shall have and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process which include, without limitation:*

(a) A quality assurance mechanism which ensures:

(1) That an external review is conducted within the specified time frames and required notices are provided in a timely manner;

(2) The selection of qualified and impartial clinical reviewers to conduct external reviews on behalf of the independent review organization, suitable matching of reviewers to specific cases and that the independent review organization employs or contracts with an adequate number of clinical reviewers to meet this requirement;

(3) The confidentiality of medical and treatment records and clinical review criteria; and

(4) That a person employed by or under contract with the independent review organization adheres to the requirements of the external review process;

(b) A toll-free telephone service that is capable of accepting, recording or providing appropriate instruction relating to external reviews to incoming telephone callers 24 hours a day, 7 days a week; and

(c) An agreement to maintain and provide to the ~~[Commissioner]~~ Office for Consumer Health Assistance the information required pursuant to section 110 of this act.

2. A clinical reviewer assigned by an independent review organization to conduct an external review must be a physician or other appropriate health care provider who must:

(a) Be an expert in the treatment of the covered person's medical condition that is the subject of the external review;

(b) Be knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical condition as the covered person;

(c) Hold a nonrestricted license in a state or territory of the United States and, if a physician, hold a current certification by a specialty board of the American Board of Medical Specialties in the area or areas appropriate to the subject of the external review; and

(d) Have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical reviewer's physical, mental or professional competence or moral character.

3. In addition to the requirements set forth in subsection 1, an independent review organization may not own or control, be a subsidiary of or in any way be owned or controlled by, or exercise control with a health benefit plan, a national, state or local trade association of health benefit plans, or a national, state or local trade association of health care providers.

4. In addition to the requirements set forth in subsections 1, 2 and 3, to be approved pursuant to section 8 of this act to conduct an external review of a specific case, neither the independent review organization selected to conduct the external review nor a clinical reviewer assigned by the independent review organization to conduct the external review may have a material professional, familial or financial conflict of interest with any of the following:

(a) The health carrier that is the subject of the external review;

(b) The covered person whose treatment is the subject of the external review or the covered person's authorized representative;

(c) Any officer, director or management employee of the health carrier that is the subject of the external review;

(d) The health care provider, the health care provider's medical group or independent practice association recommending the health care service or treatment that is the subject of the external review;

(e) The facility at which the recommended health care service or treatment would be provided; or

(f) The developer or manufacturer of the principal drug, device, procedure or other therapy being recommended for the covered person whose treatment is the subject of the external review.

5. In determining whether an independent review organization or a clinical reviewer of the independent review organization has a material professional, familial or financial conflict of interest for purposes of subsection 4, the ~~[Commissioner]~~ Office for Consumer Health Assistance shall take into consideration situations where the independent review organization to be assigned to conduct an external review of a specific case or a clinical reviewer to be assigned by the independent review organization to conduct an external review of a specific case may have an apparent professional, familial or financial relationship or connection with a person described in subsection 4, but that the characteristics of that relationship or connection are such that they are not a material professional, familial or financial conflict of interest that results in the disapproval of the independent review organization or the clinical reviewer from conducting the external review.

6. The Commissioner shall initially review and periodically review the standards of a nationally recognized private accrediting entity for accreditation of independent review organizations to determine whether the entity's standards are equivalent to or exceed the minimum qualifications established in this section. The Commissioner may accept a review conducted by the National Association of Insurance Commissioners for the purpose of the determination under this subsection and subsection 7.

7. Upon request, a nationally recognized private accrediting entity shall make its current standards for the accreditation of independent review organizations available to the Commissioner or to the National Association of Insurance Commissioners in order for the Commissioner to determine if the entity's standards are equivalent to or exceed the minimum qualifications established in this section. The Commissioner may exclude any private accrediting entity that is not reviewed by the National Association of Insurance Commissioners.

8. An independent review organization must be unbiased. An independent review organization shall establish and maintain written procedures to ensure that it is unbiased in addition to any other procedures required under this section.

9. As used in this section, the words and terms defined in ~~[sections 76, 80, 87, 88, 90, 91 and 92 of this act and NRS 695G.014 and 695G.018]~~

NRS 695G.012 to 695G.080, inclusive, and sections 71 to 101, inclusive, of this act, have the meanings ascribed to them in those sections.

Sec. 9.5. **NRS 683A.025 is hereby amended to read as follows:**

683A.025 1. Except as limited by this section, "administrator" means a person who:

(a) Directly or indirectly underwrites or collects charges or premiums from or adjusts or settles claims of residents of this State or any other state from within this State in connection with workers' compensation insurance, life or health insurance coverage or annuities, including coverage or annuities provided by an employer for his or her employees;

(b) Administers an internal service fund pursuant to NRS 287.010;

(c) Administers a trust established pursuant to NRS 287.015, under a contract with the trust;

(d) Administers a program of self-insurance for an employer;

(e) Administers a program which is funded by an employer and which provides pensions, annuities, health benefits, death benefits or other similar benefits for his or her employees; or

(f) Is an insurance company that is licensed to do business in this State or is acting as an insurer with respect to a policy lawfully issued and delivered in a state where the insurer is authorized to do business, if the insurance company performs any act described in paragraphs (a) to (e), inclusive, for or on behalf of another insurer **[**.**]** ***unless the insurers are affiliated and each insurer is licensed to do business in this State.***

2. "Administrator" does not include:

(a) An employee authorized to act on behalf of an administrator who holds a certificate of registration from the Commissioner.

(b) An employer acting on behalf of his or her employees or the employees of a subsidiary or affiliated concern.

(c) A labor union acting on behalf of its members.

(d) Except as otherwise provided in paragraph (f) of subsection 1, an insurance company licensed to do business in this State or acting as an insurer with respect to a policy lawfully issued and delivered in a state in which the insurer was authorized to do business.

(e) A producer of life or health insurance licensed in this State, when his or her activities are limited to the sale of insurance.

(f) A creditor acting on behalf of his or her debtors with respect to insurance covering a debt between the creditor and debtor.

(g) A trust and its trustees, agents and employees acting for it, if the trust was established under the provisions of 29 U.S.C. § 186.

(h) Except as otherwise provided in paragraph (c) of subsection 1, a trust and its trustees, agents and employees acting for it, if the trust was established pursuant to NRS 287.015.

(i) A trust which is exempt from taxation under section 501(a) of the Internal Revenue Code, 26 U.S.C. § 501(a), its trustees and employees, and a custodian, his or her agents and employees acting under a custodial account

which meets the requirements of section 401(f) of the Internal Revenue Code, 26 U.S.C. § 401(f).

(j) A bank, credit union or other financial institution which is subject to supervision by federal or state banking authorities.

(k) A company which issues credit cards, and which advances for and collects premiums or charges from credit card holders who have authorized it to do so, if the company does not adjust or settle claims.

(l) An attorney at law who adjusts or settles claims in the normal course of his or her practice or employment, but who does not collect charges or premiums in connection with life or health insurance coverage or with annuities.

3. As used in this section, "affiliated" means any insurer or other person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another insurer or other person.

Sec. 10. NRS 683A.160 is hereby amended to read as follows:

683A.160 ***1.*** Each applicant for a license as a managing general agent must submit with his or her application:

~~[1. A complete set of his or her fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;~~

~~2.]~~ ***(a)*** The appointment of the applicant as a managing general agent by each insurer or underwriter department to be so represented; and

~~[3.]~~ ***(b)*** The application and license fee specified in NRS 680B.010 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

2. Each applicant must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to

such other law enforcement agencies as the Commissioner deems necessary.

3. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

Sec. 11. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his or her knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years;

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;

(c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;

(d) Paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded;

(b) Designated a natural person who is licensed as a producer of insurance and who is authorized to transact business on behalf of the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance; and

(c) If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed

by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.

3. A natural person who is a resident of this State applying for a license must ~~[furnish a complete set of his or her fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt]~~ ***, as part of his or her application and at the applicant's own expense:***

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

~~[4.]~~ ***5.*** The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 12. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a

license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability ~~[.]~~ ***income.***

(b) ~~[~~Health~~]~~ ***Accident and health*** insurance for sickness, bodily injury or accidental death, which may include benefits for disability ~~[.]~~ ***income.***

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

[(e)**]** ~~[~~Surety~~]~~ ***For the purposes of a producer of insurance, this line of insurance includes surety*** indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

~~[~~(f)~~]~~ ***(e)*** Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

~~[~~(g)~~]~~ ~~*[provided under variable annuities and variable life insurance.]*~~

(f) Credit insurance, including ***credit*** life, ***credit*** **[**~~disability,~~**]** ***accident and health, credit*** property, ***credit*** **[**unemployment,**]** involuntary unemployment, **[**mortgage life, mortgage guaranty, mortgage disability,**]** guaranteed ~~*[automobile]*~~ ***asset*** protection **, [**~~of assets,~~**]** and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

~~[~~(h)~~]~~ ***(g)*** Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

~~[~~(i)~~]~~ ***(h)*** Fixed annuities ***, including, without limitation, indexed annuities,*** as a limited line.

~~[~~(j)~~]~~ ***(i)*** Travel and baggage as a limited line.

~~[~~(k)~~]~~ ***(j)*** Rental car agency as a limited line.

~~[~~(l) Continuous care coverage, which includes health insurance, as set forth in paragraph (b), and may include insurance for workers' compensation.~~]~~

(k) Crop as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, all applicable fees for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account are paid for each license and each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the

date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his or her license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of all applicable renewal fees, except for any fee required pursuant to NRS 680C.110. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his or her license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice all applicable renewal fees, except for any fee required pursuant to NRS 680C.110, is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his or her license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where the resident producer of insurance principally conducts transactions under his or her license. The place of business may be in his or her residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which the licensee conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which the licensee conducts business as a producer of insurance or his or her business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, the Commissioner may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his or her last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 12.5. **NRS 683A.367 is hereby amended to read as follows:**

683A.367 1. A person licensed as a producer of **[**~~continuous care coverage~~**]** ***insurance*** shall not sell, solicit or negotiate **[**~~insurance for workers' compensation~~**]** ***continuous care coverage*** unless **[**~~:~~

~~(a) The~~**]** ***the*** person is licensed as a producer of **[**~~casualty~~**]** **:**

(a) Casualty insurance; or

(b) **[**~~The policy of insurance for workers' compensation is sold jointly with and supplemental to a policy of health insurance covering the same individual for the same policy period.~~**]** ***Accident and health insurance and has received approval from the Commissioner to market continuous care coverage.***

2. A person who violates the provisions of subsection 1 is subject to an administrative fine pursuant to subsection 3 of NRS 683A.201.

Sec. 13. Chapter 684A of NRS is hereby amended by adding thereto the provisions set forth as sections 14, 15 and 16 of this act.

Sec. 14. ***As used in this Code, unless the context otherwise requires, the words and terms defined in NRS 684A.020 and 684A.030 and section 15 of this act have the meanings ascribed to them in those sections.***

Sec. 15. ***"Home state" means:***

1. The District of Columbia or any state or territory of the United States in which an adjuster maintains his or her principal place of residence or principal place of business and is licensed to act as an adjuster; or

2. If neither the state in which the adjuster maintains his or her principal place of residence nor the state in which the adjuster maintains his or her principal place of business has a licensing or examination requirement, a state:

(a) Which has an examination requirement;

(b) In which the adjuster is licensed; and

(c) Which the adjuster declares to be the home state.

Sec. 16. ***1. The provisions of NRS 683A.341 and 686A.310 apply to adjusters and associate adjusters.***

2. For the purposes of subsection 1, unless the context requires that a section apply only to producers of insurance or insurers, any reference in those sections to "producer of insurance" or "insurer" must be replaced by a reference to "adjuster or associate adjuster."

Sec. 17. NRS 684A.020 is hereby amended to read as follows:

684A.020 1. **[**~~As used in this Code, "adjuster"~~**]** ***"Adjuster"*** means any person who, for compensation as an independent contractor or for a fee or commission, investigates and settles, and reports to his or her principal relative to, claims:

(a) Arising under insurance contracts for property, casualty or surety coverage, on behalf solely of the insurer or the insured; or

(b) Against a self-insurer who is providing similar coverage, unless the coverage provided relates to a claim for industrial insurance.

2. For the purposes of this chapter:

(a) An associate adjuster, as defined in NRS 684A.030;

(b) An attorney at law who adjusts insurance losses from time to time incidental to the practice of his or her profession;

(c) An adjuster of ocean marine losses;

(d) A salaried employee of an insurer; or

(e) A salaried employee of a managing general agent maintaining an underwriting office in this state,

➥ is not considered an adjuster.

Sec. 18. NRS 684A.030 is hereby amended to read as follows:

684A.030 ~~[As used in this Code:]~~

1. "Independent adjuster" means an adjuster representing the interests of an insurer or a self-insurer.

2. "Public adjuster" means an adjuster employed by and representing solely the financial interests of the insured named in the policy.

3. "Associate adjuster" means an employee of an adjuster who, under the direct supervision of the adjuster, assists in the investigation and settlement of insurance losses on behalf of his or her employer.

Sec. 19. NRS 684A.040 is hereby amended to read as follows:

684A.040 1. No person may act as, or hold himself or herself out to be, an adjuster or associate adjuster in this State unless then licensed as such under the applicable independent adjuster's license, public adjuster's license or associate adjuster's license, as the case may be, issued under the provisions of this chapter.

2. ~~[For purposes of this chapter, the Commissioner may issue a limited license to an adjuster handling claims under a contract of one or more of the kinds of insurance defined in NRS 681A.010 to 681A.080, inclusive.~~

~~3.]~~ Any person violating the provisions of this section is guilty of a gross misdemeanor.

~~[4.]~~ ***3.*** A person who acts as an adjuster in this State without a license is subject to an administrative fine of not more than $1,000 for each violation.

Sec. 20. NRS 684A.070 is hereby amended to read as follows:

684A.070 1. For the protection of the people of this State, the Commissioner may not issue or continue any license as an adjuster except in compliance with the provisions of this chapter. Any person for whom a license is issued or continued must:

(a) Be at least 18 years of age;

(b) ~~[Except as otherwise provided in subsection 2, be a resident of this State, and have resided therein for at least 90 days before his or her application for the license;~~

~~(c)]~~ Be competent, trustworthy, financially responsible and of good reputation;

~~[(d)]~~ ***(c)*** Never have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

~~[(e) Have had at least 2 years' recent experience with respect to the handling of loss claims of sufficient character reasonably to enable the person to fulfill the responsibilities of an adjuster;~~

~~(f) Pass]~~

(d) Unless exempted pursuant to NRS 684A.100 or 684A.105, pass all examinations required under this chapter; and

~~[(g)]~~ ***(e)*** Not be concurrently licensed as a producer of insurance for property, casualty or surety or a surplus lines broker, except as a bail agent.

2. ~~[The Commissioner may waive the residency requirement set forth in paragraph (b) of subsection 1 if the applicant is:~~

~~(a) An adjuster licensed under the laws of another state who has been brought to this State by a firm or corporation with whom the adjuster is employed that is licensed as an adjuster in this State to fill a vacancy in the firm or corporation in this State;~~

~~(b) An adjuster licensed in an adjoining state whose principal place of business is located within 50 miles from the boundary of this State; or~~

~~(c) An adjuster who is applying for a limited license pursuant to NRS 684A.155.~~

~~3.]~~ ***A natural person who is a resident of this State applying for a license must, as part of his or her application and at the applicant's own expense:***

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

3. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal

Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

4. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph ~~[(d)]~~ ***(c)*** of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend, revoke or limit the license of an adjuster pursuant to NRS 684A.210.

Sec. 21. NRS 684A.100 is hereby amended to read as follows:

684A.100 Each person who intends to apply for a license as an adjuster must, before applying for the license, personally take and pass to the Commissioner's satisfaction a written examination testing the applicant's qualifications and competence to act as an adjuster and his or her knowledge of pertinent provisions of this Code ~~[.]~~ ***unless:***

1. The person:

(a) Is not a resident of this State;

(b) Has passed an examination to become licensed as an adjuster in the person's home state; and

(c) Is currently licensed and in good standing in the person's home state as an adjuster; or

2. The person was licensed in this State as the same type of adjuster within the 24-month period immediately preceding the date of the application, unless the previous license was revoked or suspended or its continuation was refused by the Commissioner.

Sec. 22. NRS 684A.105 is hereby amended to read as follows:

684A.105 An adjuster whose license expires is exempt from retaking the examination required by NRS 684A.100 if ~~[the adjuster applies and is relicensed within 6 months after the date of expiration.]~~ ***:***

1. The adjuster:

(a) Is not a resident of this State;

(b) Has passed an examination to become licensed as an adjuster in the person's home state; and

(c) Is currently licensed and in good standing in the person's home state as an adjuster; or

2. The adjuster was licensed in this State as the same type of adjuster within the 24-month period immediately preceding the date of the application, unless the previous license was revoked or suspended or its continuation was refused by the Commissioner.

Sec. 23. NRS 684A.130 is hereby amended to read as follows:

684A.130 1. Each license issued under this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. A license may be renewed upon payment of all applicable fees for renewal to the

Commissioner and submission of the statement required pursuant to NRS 684A.143 if the licensee is a natural person. The statement, if required, must be submitted and all applicable fees must be paid on or before the last day of the month in which the license is renewable.

2. Any license not so renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by the Commissioner within 30 days after the expiration of the license if the request is accompanied by:

(a) A fee for renewal of 150 percent of all applicable fees otherwise required, except for any fee required pursuant to NRS 680C.110; ~~[and]~~

(b) If the person requesting renewal is a natural person, the statement required pursuant to NRS 684A.143 ~~[.]~~ ***;***

(c) Proof of successful completion of any requirement for an examination unless exempt pursuant to NRS 684A.105; and

(d) If applicable, a request for a waiver of the time limit for renewal and of any fine or sanction otherwise required or imposed because of the failure of the licensee to renew his or her license because of military service, extended medical disability or other extenuating circumstance.

3. This section does not apply to temporary licenses issued under NRS 684A.150.

Sec. 24. NRS 684A.143 is hereby amended to read as follows:

684A.143 1. A natural person who applies for the issuance or renewal of a license shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. A license may not be issued or renewed by the Commissioner if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the

order to determine the actions that the applicant may take to satisfy the arrearage.

5. As used in this section, "license" means:

(a) A license as an adjuster; ***and***

(b) A license as an associate adjuster**.** ~~**[**~~~~; and~~

~~(c) A limited license issued pursuant to NRS 684A.155.~~**]**

Sec. 25. NRS 684A.147 is hereby amended to read as follows:

684A.147 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commissioner shall reinstate a license that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

3. As used in this section, "license" means:

(a) A license as an adjuster; ***and***

(b) A license as an associate adjuster**.** ~~**[**~~~~; and~~

~~(c) A limited license issued pursuant to NRS 684A.155.~~**]**

Sec. 26. NRS 684A.200 is hereby amended to read as follows:

684A.200 Nonresidents of this state who are granted licenses as adjusters pursuant to ~~**[**~~~~subsection 2 of~~**]** NRS 684A.070 are also subject to NRS 683A.281.

Sec. 27. ~~**[**~~~~NRS 685A.050 is hereby amended to read as follows:~~

~~685A.050 1. At the time of effecting any surplus lines insurance the broker shall execute an affidavit, in the form prescribed or accepted by the Commissioner, setting forth facts from which it can be determined whether such insurance is eligible for export under NRS 685A.040.~~

~~2. The broker shall file this affidavit with the report of coverage and any other information the Commissioner requires within 90 days after the insurance is so effected, as required under regulations adopted pursuant to NRS 685A.210.~~

~~***3. A broker that effectuates any surplus lines insurance for an out of state risk or exposure that includes any risk or exposure in this State shall report such transactions within 45 days after the end of each calendar quarter to the Commissioner on a form approved by the Commissioner.]***~~

(Deleted by amendment.)

Sec. 28. ~~[NRS 685A.170 is hereby amended to read as follows:~~

~~685A.170 1. Each broker shall on or before March 1 of each year file with the Commissioner~~ ***, or with a nonprofit organization of brokers in accordance with regulations adopted by the Commissioner pursuant to NRS 685A.210,*** ~~a statement verified by the broker of all surplus lines insurance transacted by the broker during the preceding calendar year. A statement must be filed whether or not the broker has transacted any business during the preceding year.~~

~~2. The statement must be on forms as prescribed and furnished by the Commissioner, and must contain such information as the Commissioner may reasonably require.~~

~~3. If a broker has filed any reports pursuant to NRS 685A.175, the annual statement must include any necessary reconciliation of the quarterly reports.~~**]**

(Deleted by amendment.)

Sec. 29. NRS 685A.210 is hereby amended to read as follows:

685A.210 1. The Commissioner may adopt reasonable regulations, consistent with the provisions of this chapter, for any of the following purposes:

(a) Effectuation of the law;

(b) Establishment of procedures through which determination is to be made as to the eligibility of particular proposed coverages for export; ~~[and]~~

(c) Establishment of procedures for the operation of a nonprofit organization of brokers designed to assist brokers in complying with the provisions of this chapter ~~[.]~~ ***; and***

(d) The use of electronic signatures and the acceptance and transmission of electronic records and payments, including transactions involving claims and other transactions relating to surplus lines insurance.

2. Such regulations carry the penalty provided by NRS 679B.130.

Sec. 30. Chapter 686A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other law or regulation, an insurer that uses credit information shall, upon receipt of a written request from an applicant or policyholder, provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for an applicant or policyholder who has experienced and whose credit information has been directly influenced by any of the following:

(a) A catastrophic event, as declared by the Federal or State Government;

(b) A serious illness or injury, or a serious illness or injury to an immediate family member;

(c) The death of a spouse, child or parent;

(d) Divorce or involuntary interruption of legally-owed alimony or support payments;

(e) Identify theft;

(f) Temporary loss of employment for a period of 3 months or more, if it results from involuntary termination;

(g) Military deployment overseas; or

(h) Other events, as determined by the insurer.

2. If an applicant or policyholder submits a request for an exception as set forth in subsection 1, an insurer may, in its sole discretion:

(a) Require the applicant or policyholder to provide reasonable written and independently verifiable documentation of the event;

(b) Require the applicant or policyholder to demonstrate that the event had direct and meaningful impact on the credit information of the applicant or policyholder;

(c) Require that such a request be made not more than 60 days after the date of the application for insurance or the policy renewal;

(d) Grant an exception despite the applicant or policyholder not providing the initial request for an exception in writing; or

(e) Grant an exception where the applicant or policyholder asks for consideration of repeated events or the insurer has considered this event previously.

3. An insurer is not out of compliance with any law or rule relating to underwriting, rating or rate filing as a result of granting an exception under this section. Nothing in this section shall be construed to provide an applicant or policyholder with a cause of action that does not exist in the absence of this section.

4. The insurer shall provide notice to each applicant and policyholder that reasonable exceptions are available and include information about how the applicant or policyholder may inquire further about such exceptions.

5. Within 30 days after the insurer's receipt of sufficient documentation of an event described in subsection 1, the insurer shall inform the applicant or policyholder of the outcome of the request for a reasonable exception. Such communication must be in writing or provided to the applicant or policyholder in the same medium as the request.

6. The Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 31. NRS 686A.600 is hereby amended to read as follows:

686A.600 As used in NRS 686A.600 to 686A.730, inclusive, ***and section 30 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 686A.610 to 686A.660, inclusive, have the meanings ascribed to them in those sections.

Sec. 32. NRS 686A.670 is hereby amended to read as follows:

686A.670 The provisions of NRS 686A.600 to 686A.730, inclusive, ***and section 30 of this act*** do not apply to a contract of surety insurance issued pursuant to chapter 691B of NRS or any commercial or business policy.

Sec. 33. NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2, NRS 686B.010 to 686B.1799, inclusive, apply to all kinds and lines of direct insurance written on risks or operations in this State by any insurer authorized to do business in this State, except:

(a) Ocean marine insurance;

(b) Contracts issued by fraternal benefit societies;

(c) Life insurance and credit life insurance;

(d) Variable and fixed annuities;

(e) **[**~~Group and blanket health insurance and credit~~**]** ***Credit*** health insurance;

(f) Property insurance for business and commercial risks;

(g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS; **[**~~and~~**]**

(h) Surety insurance **[**~~.~~**]** ***; and***

(i) Health insurance offered through a group health plan maintained by a large employer.

2. The exclusions set forth in paragraphs (f) and (g) of subsection 1 extend only to issues related to the determination or approval of premium rates.

3. As used in this section, "large employer" has the meaning ascribed to it in 42 U.S.C. § 18024(b)(1).

Sec. 34. NRS 687A.037 is hereby amended to read as follows:

687A.037 "Member insurer" means any person, except a fraternal or nonprofit service corporation which:

1. Writes any kind of insurance to which this chapter applies, including the exchange of reciprocal or interinsurance agreements of indemnity.

2. Is **[**~~licensed~~**]** ***authorized*** to transact insurance in this state.

Sec. 35. NRS 687B.120 is hereby amended to read as follows:

687B.120 1. ***Except as otherwise provided in subsection 2:***

(a) No life or health insurance policy or contract, annuity contract form, policy form, health care plan or plan for dental care, whether individual, group or blanket, including those to be issued by a health maintenance organization, organization for dental care or prepaid limited health service organization, or application form where a written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, or form of individual certificate or statement of coverage to be issued under group or blanket contracts, or by a health maintenance organization, organization for dental care or prepaid limited health service organization, may be delivered or issued for delivery in this state, unless the form has been filed with and approved by the Commissioner. **[**~~This subsection does not apply to any special rider or endorsement which relates to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies,~~

~~which special riders or endorsements are used at the request of the individual policyholder, contract holder or certificate holder.~~**]**

(b) As to group insurance policies effectuated and delivered outside this state but covering persons resident in this state, the group certificates to be delivered or issued for delivery in this state must be filed, for informational purposes only, with the Commissioner at the request of the Commissioner.

2. ***As to group insurance policies to be issued to a group approved pursuant to NRS 688B.030 or 689B.026, no policies of group insurance may be marketed to a resident or employer of this State unless the policy and any form or certificate to be issued pursuant to the policy has been filed with and approved by the Commissioner.***

3. Every **[**~~such~~**]** filing ***made pursuant to the provisions of subsection 1 or 2*** must be made not less than 45 days in advance of any **[**~~such~~**]** delivery **[**~~.~~**]** ***pursuant to subsection 1 or marketing pursuant to subsection 2.*** At the expiration of 45 days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the Commissioner. Approval of any such form by the Commissioner constitutes a waiver of any unexpired portion of such waiting period. The Commissioner may extend by not more than an additional 30 days the period within which the Commissioner may so affirmatively approve or disapprove any such form, by giving notice to the insurer of the extension before expiration of the initial 45-day period. At the expiration of any such period as so extended, and in the absence of prior affirmative approval or disapproval, any such form shall be deemed approved. The Commissioner may at any time, after notice and for cause shown, withdraw any such approval.

[~~3.~~**]** ***4.*** Any order of the Commissioner disapproving any such form or withdrawing a previous approval must state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form is effective at the expiration of such a period, not less than 30 days after the giving of notice of withdrawal, as the Commissioner in such notice prescribes.

[~~4.~~**]** ***5.*** The Commissioner may, by order, exempt from the requirements of this section for so long as the Commissioner deems proper any insurance document or form or type thereof specified in the order, to which, in the opinion of the Commissioner, this section may not practicably be applied, or the filing and approval of which are, in the opinion of the Commissioner, not desirable or necessary for the protection of the public.

[~~5.~~**]** ***6.*** Appeals from orders of the Commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in NRS 679B.310 to 679B.370, inclusive.

Sec. 36. Chapter 688A of NRS is hereby amended by adding thereto a new section to read as follows:

1. An annuity or policy of life insurance may incorporate long-term care insurance if:

(a) The long-term care insurance incorporated into the annuity or policy of life insurance complies with regulations adopted by the Commissioner.

(b) The Commissioner approves the incorporation of long-term care insurance into the annuity or policy of life insurance.

2. The Commissioner shall adopt regulations that define "long-term care insurance" for the purposes of this section.

Sec. 37. NRS 688A.020 is hereby amended to read as follows:

688A.020 ***1.*** For the purposes of this Code, an "annuity" is a contract under which obligations are assumed to make periodic payments for a specific term or terms or where the making or continuance of all or some such payments, or the amount of any such payment, is dependent upon continuance of human life, except payments made pursuant to optional modes of settlement under the authority of NRS 681A.040 **.** ~~[("life insurance" defined). Such a contract which includes extra benefits of the kinds set forth in NRS 681A.030 ("health insurance" defined) and NRS 681A.040 ("life insurance" defined) shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.]~~

2. The term includes an annuity contract which incorporates long-term care insurance if the annuity contract may incorporate the long-term care insurance pursuant to section 36 of this act.

Sec. 38. NRS 688A.165 is hereby amended to read as follows:

688A.165 ***1.*** No ***annuity contract, pure endowment contract or*** policy of life insurance, other than ~~[an industrial life insurance]~~ ***a replacement contract or*** policy, may be delivered or issued for delivery in this state unless it contains a provision, or a notice attached to the ***contract or*** policy, which, in substance, states that during a period of 10 days from the date the ***contract or*** policy is delivered to the ***contract or*** policy owner, it may be surrendered to the insurer together with a written request for cancellation of the ***contract or*** policy and in such event, the insurer will refund any premium paid therefor, including any ***contract or*** policy fees or other charges.

2. No annuity contract, pure endowment contract or policy of life insurance that is a replacement contract or policy may be delivered or issued for delivery in this State unless it contains a provision, or a notice attached to the contract or policy, which, in substance, states that during a period of 30 days after the date on which the contract or policy is delivered to the contract or policy owner, it may be surrendered to the insurer together with a written request for cancellation of the contract or policy and in such event, the insurer will refund any premium paid therefor, including any contract or policy fees or other charges.

3. This section does not apply to industrial life insurance policies.

Sec. 39. NRS 688A.180 is hereby amended to read as follows:

688A.180 1. No annuity or pure endowment contract, other than reversionary annuities (also called survivorship annuities) or group annuities and except as stated in this section, shall be delivered or issued for delivery

in this state unless it contains in substance each of the provisions specified in NRS ***688A.165 and*** 688A.190 to 688A.240, inclusive. Any of such provisions not applicable to single-premium annuities or single-premium pure endowment contracts shall not, to that extent, be incorporated therein.

2. This section does not apply to contracts for deferred annuities included in, or upon the lives of beneficiaries under, life insurance policies.

Sec. 40. NRS 688A.363 is hereby amended to read as follows:

688A.363 1. The minimum values, specified in NRS 688A.3631 to 688A.3637, inclusive, and 688A.366, of any paid-up annuity, cash surrender or death benefits available under an annuity contract must be based upon minimum nonforfeiture amounts as defined in this section.

2. ~~[With respect to contracts providing for flexible considerations, the]~~ ***The*** minimum nonforfeiture amount for any time at or before the commencement of any annuity payments is equal to an accumulation ***of 87.5 percent of the gross considerations*** up to such time at a rate of interest calculated pursuant to subsection 3, which must be decreased by the sum of:

(a) Any prior withdrawals from or partial surrenders of the contract, accumulated at a rate of interest calculated pursuant to subsection 3;

(b) An annual charge in the amount of $50, accumulated at rates of interest calculated pursuant to subsection 3;

(c) Any premium tax paid by the company for the contract, accumulated at rates of interest calculated pursuant to subsection 3; and

(d) The amount of any indebtedness to the company on the contract, including interest due and accrued.

~~[➥ The net considerations for a given contract year used to define the minimum nonforfeiture amount must be an amount that is equal to 87.5 percent of the gross considerations credited to the contract during that contract year.]~~

3. For the purpose of this section, the rate of interest used to determine the minimum nonforfeiture amounts must be an annual rate of interest determined as the lesser of 3 percent per annum or a rate specified in the contract if the rate is calculated in accordance with regulations adopted by the Commissioner, except that at no time may the resulting rate be less than 1 percent per annum.

4. The Commissioner may provide by regulation for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit or for other contracts that the Commissioner determines require adjustment. An adjustment to the calculation of the interest rate used to determine the minimum nonforfeiture amounts authorized under this subsection may not result in an interest rate of less than 1 percent per annum.

Sec. 41. NRS 688A.3633 is hereby amended to read as follows:

688A.3633 ***1.*** For contracts which provide cash surrender benefits, such benefits available before maturity shall not be less than the present

value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid before the time of cash surrender, reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate of not more than 1 percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. Any cash surrender benefit shall not be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

2. For annuity contracts issued on or after January 1, 2012, that provide cash surrender benefits:

(a) The cash surrender value on or past the maturity date must be equal to the amount used to determine the annuity benefits;

(b) A surrender charge may not be imposed on or past the maturity date of the annuity contract; and

(c) For annuity contracts with one or more renewable guaranteed periods, a new surrender charge schedule may be imposed for each new guaranteed period if:

(1) The surrender charge is zero at the end of each guaranteed period and remains zero for at least 30 days;

(2) The contract provides for continuation of the contract without surrender charges unless the contract holder specifically elects a new guaranteed period with a new surrender charge schedule; and

(3) The renewal period does not exceed 10 years and the maturity date complies with NRS 688A.3637.

3. An annuity contract that provides for flexible considerations may have separate surrender charge schedules associated with each consideration.

Sec. 42. NRS 688A.3637 is hereby amended to read as follows:

688A.3637 ***1.*** For the purpose of determining the benefits calculated under NRS 688A.3633 and 688A.3635 ~~[, in]~~ ***:***

(a) In the case of annuity contracts ***issued before January 1, 2012,*** under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election is permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's 70th birthday or the 10th anniversary of the contract, whichever is later.

(b) In the case of annuity contracts issued on or after January 1, 2012, the maturity date shall be deemed to be the latest date permitted by the contract, but shall not be deemed to be later than the anniversary of the

contract next following the annuitant's 70th birthday or the 10th anniversary of the contract, whichever is later.

2. For the purpose of determining the maturity date under this section for an annuity contract that provides for flexible considerations, the 10th anniversary of the contract is determined separately for each consideration.

Sec. 43. NRS 688C.200 is hereby amended to read as follows:

688C.200 1. Upon the filing of an application and payment of all applicable fees, the Commissioner shall investigate the applicant, and issue a license if the Commissioner finds that the applicant:

(a) If a provider of viatical settlements, has set forth a detailed plan of operation;

(b) Is competent and trustworthy and intends to act in good faith in the capacity for which the license is sought;

(c) Has a good reputation in business and, if a natural person, has had experience, training or education which qualifies the applicant in that capacity;

(d) If an organization, provides a certificate of good standing from the state of its domicile; and

(e) If a provider or broker of viatical settlements:

(1) Has included a plan to prevent fraud which satisfies the requirements of NRS 688C.490; and

(2) Has demonstrated evidence of financial responsibility through either:

(I) A surety bond executed and issued by an authorized surety in favor of the State of Nevada, continuous in form and in an amount as determined by the Commissioner, of not less than $250,000; or

(II) A deposit of cash, certificates of deposit, securities or any combination thereof in the amount of $250,000.

2. The Commissioner shall not issue a license to a nonresident unless a written designation of an agent for service of process, or an irrevocable written consent to the commencement of an action against the applicant by service of process upon the Commissioner, accompanies the application.

3. A provider or broker of viatical settlements shall furnish to the Commissioner new or revised information concerning partners, members, officers, holders of more than 10 percent of its stock, and designated employees within 30 days after a change occurs.

4. Notwithstanding any provision of this section to the contrary, the Commissioner shall accept as evidence of financial responsibility proof that financial instruments complying with the requirements of this section have been filed with a state where the applicant is licensed as a ***provider or*** broker of viatical settlements.

5. A surety bond issued for the purposes of this section must specifically authorize recovery by the Commissioner on behalf of any person in this State who sustained damages as a result of:

(a) Erroneous acts;

(b) Failure to act; or

(c) Conviction of:

(1) Fraud; or

(2) Unfair practices,

➥ by the provider or broker of viatical settlements.

6. The Commissioner may request evidence of financial responsibility as described in subparagraph (2) of paragraph (e) of subsection 1 at any time the Commissioner deems necessary.

Sec. 44. NRS 689.175 is hereby amended to read as follows:

689.175 1. The proposed seller, or the appropriate corporate officer of the proposed seller, shall apply in writing to the Commissioner for a seller's certificate of authority, showing:

(a) The proposed seller's name and address, and his or her occupations during the preceding 5 years;

(b) The name and address of the proposed trustee;

(c) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed prepaid contract; and

(d) Such other pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund and accepts it;

(b) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed prepaid contract or items to be supplied under it;

(c) A certified copy of the articles of incorporation and the bylaws of any corporate applicant;

(d) A copy of any other document relating to the proposed seller, trustee, trust, performer or prepaid contract, as required by the Commissioner; ***and***

(e) ~~[~~A complete set of the fingerprints of the proposed seller, or the appropriate corporate officer of the proposed seller, and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

~~(f) A fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant; and~~

~~(g)]~~ The applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 45. NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number and personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) ~~[Be accompanied by a complete set of the fingerprints of the applicant and written permission authorizing the Commissioner to forward those~~

~~fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.~~

~~(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.~~

~~(e)~~] Be accompanied by the statement required pursuant to NRS 689.258.

~~[(f)~~] ***(d)*** Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

4. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

5. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 46. NRS 689.490 is hereby amended to read as follows:

689.490 1. The proposed seller, or the appropriate corporate officer of the seller, shall apply in writing to the Commissioner for a seller's permit, showing:

(a) The proposed seller's name and address and his or her occupations during the preceding 5 years;

(b) The name and address of the proposed trustee;

(c) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed prepaid contract; and

(d) Such other pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund and accepts it;

(b) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed prepaid contract or items to be supplied under it;

(c) A certified copy of the articles of incorporation and the bylaws of any corporate applicant;

(d) A copy of any other document relating to the proposed seller, trustee, trust, performer or prepaid contract, as required by the Commissioner; ***and***

(e) ~~[~~A complete set of the fingerprints of the proposed seller, or the appropriate corporate officer of the seller, and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

~~(f) A fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant; and~~

~~(g)]~~ The applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 47. NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) ~~[~~Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

~~(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.~~

~~(e)]~~ Be accompanied by the statement required pursuant to NRS 689.258.

~~[(f)]~~ ***(d)*** Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable, and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

3. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b) of subsection 1 is a sufficient ground for the Commissioner to deny a license

to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

4. A natural person who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

5. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 48. NRS 689A.745 is hereby amended to read as follows:

689A.745 1. Except as otherwise provided in subsection 4, each insurer that issues a policy of health insurance in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner in consultation with the State Board of Health.

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a policy of health insurance issued by the insurer.

3. The Commissioner or the State Board of Health may examine the system for resolving complaints established pursuant to subsection 1 at such times as either deems necessary or appropriate.

4. Each insurer that issues a policy of health insurance in this State that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an insured concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, ~~*[695G.230,]*~~ inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 49. NRS 689B.026 is hereby amended to read as follows:

689B.026 1. Except as otherwise provided in this section, no policy of group health insurance may be delivered or issued for delivery in this state to a group which was formed for the purpose of purchasing one or more policies of group health insurance.

2. A policy of group health insurance may be delivered to a group described in subsection 1 if the Commissioner approves the issuance. The Commissioner shall not grant approval unless the Commissioner finds that:

(a) The benefits of the policy are reasonable in relation to the premiums charged; ~~[and]~~

(b) The group to which the policy is issued is organized and operated in a fiscally sound manner ~~[.]~~ ***; and***

(c) All policy rates and forms are filed with and approved by the Division before marketing to a resident or employer in this State.

3. ~~[Upon approval by the Commissioner, an insurer may exclude or limit the coverage in a policy issued pursuant to this section of any person as to whom evidence of insurability is not satisfactory to the insurer.]~~ ***The Commissioner shall use the provisions of this chapter and chapter 689C of NRS to review insurance products marketed to employers in this State. The Commissioner shall use the provisions of chapter 689A of NRS to review insurance products marketed to natural persons in this State.***

4. The provisions of this section apply to the offering in this state of a policy issued in another state.

Sec. 50. NRS 689B.0285 is hereby amended to read as follows:

689B.0285 1. Except as otherwise provided in subsection 4, each insurer that issues a policy of group health insurance in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner in consultation with the State Board of Health.

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a policy of group health insurance issued by the insurer.

3. The Commissioner or the State Board of Health may examine the system for resolving complaints established pursuant to subsection 1 at such times as either deems necessary or appropriate.

4. Each insurer that issues a policy of group health insurance in this State that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an insured concerning the health care services that complies with the provisions of NRS 695G.200 to 695G.310, ~~*[695G.230,]*~~ inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 51. NRS 689B.080 is hereby amended to read as follows:

689B.080 Any insurer authorized to write health insurance in this state, including a nonprofit corporation for hospital, medical or dental services that has a certificate of authority issued pursuant to chapter 695B of NRS, may issue blanket accident and health insurance. No blanket policy, except as provided in subsection ~~[4]~~ ***5*** of NRS 687B.120, may be issued or delivered in this state unless a copy of the form thereof has been filed in accordance with NRS 687B.120. Every blanket policy must contain provisions which in the opinion of the Commissioner are not less favorable to the policyholder and the individual insured than the following:

1. A provision that the policy, including endorsements and a copy of the application, if any, of the policyholder and the persons insured constitutes the entire contract between the parties, and that any statement made by the policyholder or by a person insured is in the absence of fraud a representation and not a warranty, and that no such statements may be used in defense to a claim under the policy, unless contained in a written application. The insured or the beneficiary or assignee of the insured has the right to make a written request to the insurer for a copy of an application, and the insurer shall, within 15 days after the receipt of a request at its home office or any branch office of the insurer, deliver or mail to the person making the request a copy of the application. If a copy is not so delivered or mailed, the insurer is precluded from introducing the application as evidence in any action based upon or involving any statements contained therein.

2. A provision that written notice of sickness or of injury must be given to the insurer within 20 days after the date when the sickness or injury occurred. Failure to give notice within that time does not invalidate or reduce any claim if it is shown that it was not reasonably possible to give notice and that notice was given as soon as was reasonably possible.

3. A provision that the insurer will furnish to the claimant or to the policyholder for delivery to the claimant such forms as are usually furnished by it for filing proof of loss. If the forms are not furnished before the expiration of 15 days after giving written notice of sickness or injury, the claimant shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

4. A provision that in the case of a claim for loss of time for disability, written proof of the loss must be furnished to the insurer within 90 days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of a claim for any other loss, written proof of the loss must be furnished to the insurer within 90 days after the date of the loss. Failure to furnish such proof within that time does not invalidate or reduce any claim if it is shown that it was not reasonably possible to furnish proof and that the proof was furnished as soon as was reasonably possible.

5. A provision that all benefits payable under the policy other than benefits for loss of time will be payable immediately upon receipt of written proof of loss, and that, subject to proof of loss, all accrued benefits payable under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of that period will be paid immediately upon receipt of proof.

6. A provision that the insurer at its own expense has the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy where it is not prohibited by law.

7. A provision, if applicable, setting forth the provisions of NRS 689B.035.

8. A provision for benefits for expense arising from care at home or health supportive services if that care or service was prescribed by a physician and would have been covered by the policy if performed in a medical facility or facility for the dependent as defined in chapter 449 of NRS.

9. A provision that no action at law or in equity may be brought to recover under the policy before the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of the policy and that no such action may be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.

Sec. 51.3. **Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:**

"Employee leasing company" has the meaning ascribed to it in NRS 616B.670.

Sec. 51.5. **NRS 689C.015 is hereby amended to read as follows:**

689C.015 Except as otherwise provided in this chapter, as used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 689C.017 to 689C.106, inclusive, ***and section 51.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 51.7. **NRS 689C.065 is hereby amended to read as follows:**

689C.065 ***1.*** **"**Eligible employee" means a permanent employee who has a regular working week of 30 or more hours.

2. The term includes a sole proprietor**,** **[**~~or~~**]** a partner of a partnership **[**~~,~~**]** ***or an employee of an employee leasing company,*** if the sole proprietor**,** **[**~~or~~**]** partner ***or employee of the employee leasing company*** is included as an employee under a health benefit plan of a small employer.

Sec. 52. NRS 689C.156 is hereby amended to read as follows:

689C.156 1. As a condition of transacting business in this State with small employers, a carrier shall actively market to a small employer each health benefit plan which is actively marketed in this State by the carrier to any small employer in this State. The health insurance plans marketed pursuant to this section by the carrier must include, without limitation, a basic health benefit plan and a standard health benefit plan. A carrier shall be deemed to be actively marketing a health benefit plan when it makes available any of its plans to a small employer that is not currently receiving coverage under a health benefit plan issued by that carrier.

2. A carrier shall issue to a small employer any health benefit plan marketed in accordance with this section if the eligible small employer applies for the plan and agrees to make the required premium payments and satisfy the other reasonable provisions of the health benefit plan that are not inconsistent with NRS 689C.015 to 689C.355, inclusive, ***and section 51.3 of this act,*** and 689C.610 to 689C.980, inclusive, except that a carrier is not required to issue a health benefit plan to a self-employed person who is covered by, or is eligible for coverage under, a health benefit plan offered by another employer.

3. If a health benefit plan marketed pursuant to this section provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, the carrier shall provide a system for resolving any complaints of an employee concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, ~~*[695G.230,]*~~ inclusive **[**~~.~~**]** ***, and sections 102 to 112, inclusive, of this act.***

Sec. 53. NRS 690B.023 is hereby amended to read as follows:

690B.023 If insurance for the operation of a motor vehicle required pursuant to NRS 485.185 is provided by a contract of insurance, the insurer shall:

1. Provide evidence of insurance to the insured on a form approved by the Commissioner. The evidence of insurance must include:

(a) The name and address of the policyholder;

(b) The name and address of the insurer;

(c) ***Vehicle information, consisting of:***

(1) The year, make and complete identification number of the insured vehicle or vehicles; ***or***

(2) The word "Fleet" if the vehicle is covered under a fleet policy written on an any auto basis or blanket policy basis;

(d) The term of the insurance, including the day, month and year on which the policy:

(1) Becomes effective; and

(2) Expires;

(e) The number of the policy;

(f) A statement that the coverage meets the requirements set forth in NRS 485.185; and

(g) The statement "This card must be carried in the insured motor vehicle for production upon demand." The statement must be prominently displayed.

2. Provide new evidence of insurance if:

(a) The information regarding the insured vehicle or vehicles required pursuant to paragraph (c) of subsection 1 no longer is accurate;

(b) An additional motor vehicle is added to the policy;

(c) A new number is assigned to the policy; or

(d) The insured notifies the insurer that the original evidence of insurance has been lost.

Sec. 54. Chapter 690C of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commissioner may refuse to renew or may suspend, limit or revoke a provider's certificate of registration if the Commissioner finds after a hearing thereon, or upon waiver of hearing by the provider, that the provider has:

(a) Violated or failed to comply with any lawful order of the Commissioner;

(b) Conducted business in an unsuitable manner;

(c) Willfully violated or willfully failed to comply with any lawful regulation of the Commissioner; or

(d) Violated any provision of this chapter.

➥ In lieu of such a suspension or revocation, the Commissioner may levy upon the provider, and the provider shall pay forthwith, an administrative fine of not more than $1,000 for each act or violation.

2. The Commissioner shall suspend or revoke a provider's certificate of registration on any of the following grounds if the Commissioner finds after a hearing thereon that the provider:

(a) Is in unsound condition, is being fraudulently conducted, or is in such a condition or is using such methods and practices in the conduct of its business as to render its further transaction of service contracts in this State currently or prospectively injurious to service contract holders or to the public.

(b) Refuses to be examined, or its directors, officers, employees or representatives refuse to submit to examination relative to its affairs, or to produce its books, papers, records, contracts, correspondence or other documents for examination by the Commissioner when required, or refuse to perform any legal obligation relative to the examination.

(c) Has failed to pay any final judgment rendered against it in this State upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within 30 days after the judgment became final or within 30 days after dismissal of an appeal before final determination, whichever date is the later.

3. The Commissioner may, without advance notice or a hearing thereon, immediately suspend the certificate of registration of any provider that has filed for bankruptcy or otherwise been deemed insolvent.

Sec. 55. NRS 690C.170 is hereby amended to read as follows:

690C.170 To be issued a certificate of registration, a provider must comply with one of the following:

1. Purchase a contractual liability insurance policy which insures the obligations of each service contract the provider issues, sells or offers for sale. The contractual liability insurance policy must be issued by an insurer ***which is not an affiliate of the provider and which is*** authorized to transact insurance in this state or pursuant to the provisions of chapter 685A of NRS ~~[.]~~ ***; or***

2. ~~[~~Maintain a reserve account and deposit with the Commissioner security as provided in this subsection. The reserve account must contain at all times an amount of money equal to at least 40 percent of the gross consideration received by the provider for any unexpired service contracts, less any claims paid on those unexpired service contracts. The Commissioner may examine the reserve account at any time. The provider shall also deposit with the Commissioner security in an amount that is equal to $25,000 or 5 percent of the gross consideration received by the provider for any unexpired service contracts, less any claims paid on the unexpired service contracts, whichever is greater. The security must be:

(a) A surety bond issued by a surety company authorized to do business in this state;

(b) Securities of the type eligible for deposit pursuant to NRS 682B.030;

(c) Cash;

(d) An irrevocable letter of credit issued by a financial institution approved by the Commissioner; or

(e) In any other form prescribed by the Commissioner.

3.~~]~~ Maintain, or be a subsidiary of a parent company that maintains, a net worth or stockholders' equity of at least $100,000,000. Upon request, a provider shall provide to the Commissioner a copy of the most recent Form 10-K report or Form 20-F report filed by the provider or parent company of the provider with the Securities and Exchange Commission within the previous year. If the provider or parent company is not required to file those reports with the Securities and Exchange Commission, the provider shall provide to the Commissioner a copy of the most recently audited financial statements of the provider or parent company. If the net worth or stockholders' equity of the parent company of the provider is used to comply with the requirements of this subsection, the parent company must guarantee

to carry out the duties of the provider under any service contract issued or sold by the provider.

Sec. 56. Chapter 691A of NRS is hereby amended by adding thereto a new section to read as follows:

The Commissioner may adopt regulations to carry out the provisions of this chapter.

Sec. 57. NRS 691A.020 is hereby amended to read as follows:

691A.020 1. **[**~~Each~~**]** ***Except as otherwise provided in subsection 3, each*** insurer which provides ***a policy for a personal line of*** property insurance covering ***a manufactured*** ~~***[homes]***~~ ***home or*** mobile **[**~~homes~~**]** ***home*** in Nevada ***that was manufactured within the immediately preceding 15 years*** shall offer ~~**[,]**~~ ***to an insured, on a form approved by the Commissioner and*** in addition to any other insurance, ***the option of purchasing*** insurance to pay the ~~**[**market**]**~~ ***replacement*** value of the ***manufactured home or*** mobile home in the event of a total loss of the ***manufactured home or*** mobile home ~~**[.]**~~ ***, including, without limitation, the*** ~~***[cost]***~~ ***reasonable costs for:***

(a) Transporting and installing the replacement manufactured home or mobile home; and

(b) Debris removal.

2. Nothing in this section requires any insurer to offer any insurance on ***manufactured homes or*** mobile homes at a premium which is not fair and adequate.

3. The provisions of this section do not apply to a policy of insurance placed on a manufactured home or a mobile home by a creditor or lender.

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

(a) "Manufactured home" has the meaning ascribed to it in NRS 489.113.

(b) "Replacement value" means the amount needed to repair, replace or rebuild a damaged or destroyed manufactured home or mobile home using new materials of similar kind and quality with no deduction for depreciation. The term does not include the value of land.

Sec. 58. NRS 692A.1041 is hereby amended to read as follows:

692A.1041 1. In addition to all other requirements set forth in this title and except as otherwise provided in subsection 4 and NRS 692A.1042, as a condition to doing business in this State, each title agent and title insurer shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 3, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the title agency or title insurer and all escrow officers employed by or associated with the title agent or title insurer.

2. The bond must be in substantially the following form:

Know All Persons by These Presents, that ....., as principal, and ....., as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a

violation of any of the provisions of chapter 692A of NRS, in the sum of ....., lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that: Whereas, the Commissioner of Insurance of the Department of Business and Industry of the State of Nevada has issued the principal a license or certificate of authority as a title agent or title insurer, and the principal is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, the principal's agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 692A of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 692A of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 692A of NRS, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the .....(day) of .....(month) of .....(year), and remains in force until the surety is released from liability by the Commissioner of Insurance or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of Insurance of the Department of Business and Industry of the State of Nevada.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its authorized officers at ....., Nevada, this .....(day) of .....(month) of .....(year).

(Seal)
Principal
(Seal)
Surety
By
Attorney-in-fact

~~[Licensed resident]~~ ***Nevada licensed insurance*** agent

3. Each title agent and title insurer shall deposit a corporate surety bond that complies with the provisions of this section or a substitute form of security that complies with the provisions of NRS 692A.1042 in an amount that:

(a) Is not less than $20,000 or 2 percent of the average collected balance of the trust account or escrow account maintained by the title agent or title insurer pursuant to NRS 692A.250, whichever is greater; and

(b) Is not more than $250,000.

➥ The Commissioner shall determine the appropriate amount of the surety bond or substitute form of security that must be deposited initially by the title agent or title insurer based upon the expected average collected balance of the trust account or escrow account maintained by the title agent or title insurer pursuant to NRS 692A.250. After the initial deposit, the Commissioner shall, on an annual basis, determine the appropriate amount of the surety bond or substitute form of security that must be deposited by the title agent or title insurer based upon the average collected balance of the trust account or escrow account maintained by the title agent or title insurer pursuant to NRS 692A.250.

4. A title agent or title insurer may offset or reduce the amount of the surety bond or substitute form of security that the title agent or title insurer is required to deposit pursuant to subsection 3 by the amount of any of the following:

(a) Cash or securities deposited with the Commissioner in this State pursuant to NRS 680A.140 or 682B.015.

(b) Reserves against unpaid losses and loss expenses maintained pursuant to NRS 692A.150 or 692A.170.

(c) Unearned premium reserves maintained pursuant to NRS 692A.160 or 692A.170.

(d) Fidelity bonds maintained by the title agent or title insurer.

(e) Other bonds or policies of insurance maintained by the title agent or title insurer covering liability for economic losses to customers caused by the title agent or title insurer.

Sec. 59. NRS 692B.070 is hereby amended to read as follows:

692B.070 1. A written application for any permit required under NRS 692B.040 must be filed with the Commissioner. The application must include or be accompanied by:

(a) The name, type and purposes of the insurer, corporation, syndicate, association, firm or organization formed or proposed to be formed or financed;

(b) On forms furnished by the Commissioner, for each person associated or to be associated as incorporator, director, promoter, manager or in other similar capacity in the enterprise, or in the formation of the proposed insurer, corporation, syndicate, association, firm or organization, or in the proposed financing:

(1) The person's name, residential address and qualifications; ***and***

(2) The person's business background and experience for the preceding 10 years; ~~[and~~

~~(3) A complete set of the person's fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;]~~

(c) A full disclosure of the terms of all pertinent understandings and agreements existing or proposed among any persons or entities so associated or to be associated, and a copy of each such agreement;

(d) Executed quadruplicate originals of the articles of incorporation of a proposed domestic stock or mutual insurer;

(e) The original and one copy of the proposed bylaws of a proposed domestic stock or mutual insurer;

(f) The plan according to which solicitations are to be made and a reasonably detailed estimate of all organization and sales expenses to be incurred in the proposed organization and offering;

(g) A copy of any security, receipt or certificate proposed to be offered, and a copy of any proposed subscription agreement or application therefor;

(h) A copy of any prospectus, offering circular, advertising or sales literature or material proposed to be used;

(i) A copy of the proposed form of any escrow agreement required;

(j) A copy of:

(1) The articles of incorporation of any corporation, other than a proposed domestic insurer, proposing to offer its securities, certified by the public officer having custody of the original thereof;

(2) Any syndicate, association, firm, organization or other similar agreement, by whatever name called, if funds for any of the purposes referred to in subsection 1 of NRS 692B.040 are to be secured through the sale of any security, interest or right in or relative to such syndicate, association, firm or organization; and

(3) If the insurer is, or is to be, a reciprocal insurer, the power of attorney and of other agreements existing or proposed affecting subscribers, investors, the attorney-in-fact or the insurer;

(k) If the applicant is a natural person, the statement required pursuant to NRS 692B.193; and

(l) Such additional pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by a deposit of the fees required under NRS 680B.010 for the filing of the application and for issuance of the permit, if granted.

3. If the applicant is a natural person, the application must include the social security number of the applicant.

4. In lieu of a special filing thereof of information required by subsection 1, the Commissioner may accept a copy of any pertinent filing made with the Securities and Exchange Commission relative to the same offering.

5. Each person identified in paragraph (b) of subsection 1 who is a resident of this State must, as part of his or her application and at the person's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the person's fingerprints to the Central

Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the person's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the person were taken and directly forwarded electronically or by another means to the Central Repository and that the person has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the person's background and to such other law enforcement agencies as the Commissioner deems necessary.

6. The Commissioner may:

(a) Unless the person's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 5, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the person's background as the Commissioner deems necessary.

Sec. 60. NRS 692B.190 is hereby amended to read as follows:

692B.190 1. No person may in this State solicit subscription to or purchase of any security covered by a solicitation permit issued under this chapter, unless then licensed therefor by the Commissioner.

2. Such a license may be issued only to natural persons, and the Commissioner shall not license any person found by the Commissioner to be:

(a) Dishonest or untrustworthy;

(b) Financially irresponsible;

(c) Of unfavorable personal or business history or reputation; or

(d) For any other cause, reasonably unsuited for fulfillment of the responsibilities of such a licensee.

3. The applicant for such a license must file a written application therefor with the Commissioner, on forms and containing inquiries as designated and required by the Commissioner. The application must include or be accompanied by:

(a) The social security number of the applicant;

(b) An endorsement by the holder of the permit under which the securities are proposed to be sold; ***and***

(c) ~~[A complete set of the fingerprints of the applicant on forms furnished by the Commissioner; and~~

~~(d)]~~ The application fee specified in NRS 680B.010.

4. The Commissioner ~~[:~~

~~(a) May forward the complete set of fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(b) Shall~~ ***shall*** promptly cause an investigation to be made of the identity and qualifications of the applicant.

5. The license, if issued, must be for the period of the permit, and must automatically be extended if the permit is extended.

6. The Commissioner shall revoke the license if at any time after issuance the Commissioner has found that the license was obtained through misrepresentation or concealment of facts, or that the licensee is no longer qualified therefor, or that the licensee has misrepresented the securities offered, or has otherwise conducted himself or herself in or with respect to transactions under the license in a manner injurious to the permit holder or to subscribers or prospects or the public.

7. This section does not apply to securities broker-dealers registered as such under the Securities Exchange Act of 1934, or with respect to securities the sale of which is underwritten, other than on a best efforts basis, by such a broker-dealer.

8. With respect to solicitation of subscriptions to or purchase of securities covered by a solicitation permit issued by the Commissioner, the license required by this section is in lieu of a license or permit otherwise required of the solicitor under any other law of this State.

9. An applicant who is a resident of this State must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

10. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 9, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary.

Sec. 61. NRS 692C.370 is hereby amended to read as follows:

692C.370 For the purposes of this chapter, in determining whether or not an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors among others must be considered:

1. The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, ***operating results,*** insurance in force and other appropriate criteria.
2. The extent to which the insurer's business is diversified among the several lines of insurance.
3. The number and size of risks insured in each line of business.
4. The extent of the geographical dispersion of the insurer's insured risks.
5. The nature and extent of the insurer's reinsurance program.
6. The quality, diversification and liquidity of the insurer's investment portfolio.
7. The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.
8. The surplus as regards policyholders maintained by other comparable insurers.
9. The adequacy of the insurer's reserves.
10. The quality and liquidity of investments in ***affiliates or*** subsidiaries made pursuant to NRS 692C.180 to 692C.250, inclusive. The Commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the judgment of the Commissioner such investment so warrants.
11. The quality of the insurer's earnings and the extent to which the reported earnings of the insurer include extraordinary items. As used in this subsection, the term "extraordinary item" means a nonrecurring occurrence or event.

Sec. 62. ~~[NRS 692C.380 is hereby amended to read as follows:~~

~~692C.380 For purposes of NRS 692C.360 to 692C.400, inclusive, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the [greater] *lesser* of:~~

~~1. Ten percent of the insurer's surplus as regards policyholders as of December 31 next preceding the dividend or distribution; or~~

~~2. The net gain from operations of the insurer, if the insurer is a life insurer, or the net income, not including realized capital gains if the insurer is not a life insurer, for the 12-month period ending December 31 next preceding the dividend or distribution,~~

~~➥ but does not include pro rata distributions of any class of the insurer's own securities.]~~ **(Deleted by amendment.)**

Sec. 63. NRS 694C.330 is hereby amended to read as follows:

694C.330 Except as otherwise provided in this section, a captive insurer shall pay dividends out of, or make any other distributions from, its capital or surplus, or both, in accordance with the provisions set forth in NRS ***692C.370,*** 693A.140, 693A.150 and 693A.160. A captive insurer shall not pay dividends out of, or make any other distribution with respect to, its capital or surplus, or both, in violation of this section unless the captive insurer has obtained the prior approval of the Commissioner to make such a payment or distribution.

Sec. 64. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before March 1 of each year, a captive insurer shall submit to the Commissioner a report of its financial condition, as prepared by a certified public accountant. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer shall file its report in the form required by NRS ~~[680A.265.]~~ ***680A.270.*** The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted:

(a) The annual report is due not later than 60 days after the end of each such fiscal year; and

(b) The pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

3. Any captive insurer failing, without just cause beyond the reasonable control of the captive insurer, to file its annual statement as required by subsection 1 shall pay a penalty of $100 for each day the captive insurer fails to file the report, but not to exceed an aggregate amount of $3,000, to be recovered in the name of the State of Nevada by the Attorney General.

4. Any director, officer, agent or employee of a captive insurer who subscribes to, makes or concurs in making or publishing, any annual or other statement required by law, knowing the same to contain any material statement which is false, is guilty of a gross misdemeanor.

Sec. 65. NRS 695B.380 is hereby amended to read as follows:

695B.380 1. Except as otherwise provided in subsection 4, each insurer that issues a contract for hospital or medical services in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner in consultation with the State Board of Health.

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a contract for hospital or medical services issued by the insurer.

3. The Commissioner or the State Board of Health may examine the system for resolving complaints established pursuant to subsection 1 at such times as either deems necessary or appropriate.

4. Each insurer that issues a contract specified in subsection 1 shall, if the contract provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, provide a system for resolving any complaints of an insured concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, ~~*[695G.230,]*~~ inclusive ~~.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 65.5. **NRS 695C.180 is hereby amended to read as follows:**

695C.180 1. **[**~~No~~**]** ***Except as otherwise provided in subsection 3, no*** schedule of charges for enrollee coverage for health care services or amendment thereto may be used in conjunction with any health care plan until a copy of **[**~~such~~**]** ***the*** schedule or amendment **[**~~thereto~~**]** has been filed with and approved by the Commissioner.

2. Such charges may be established in accordance with actuarial principles for various categories of enrollees. **[**~~However the~~**]** ***The*** charges **[**~~shall~~**]** ***must*** not be excessive, inadequate **[**~~nor~~**]** ***or*** unfairly discriminatory. A certification by a qualified actuary to the adequacy of the charges **[**~~shall~~**]** ***must*** accompany the filing along with adequate supporting information.

3. The provisions of this section do not apply to health insurance coverage offered through a group health plan maintained by a large employer. As used in this subsection, "large employer" has the meaning ascribed to it in 42 U.S.C. § 18024(b)(1).

Sec. 66. NRS 695C.260 is hereby amended to read as follows:

695C.260 Each health maintenance organization shall establish:

1. A system for resolving complaints which complies with the provisions of NRS 695G.200 to 695G.230, inclusive; and

2. A system for conducting external reviews of ~~[final]~~ adverse determinations that complies with the provisions of NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive ~~[.]~~ ***, of this act.***

Sec. 67. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if the Commissioner finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The State Board of Health certifies to the Commissioner that the health maintenance organization:

(1) Does not meet the requirements of subsection 2 of NRS 695C.080; or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of ~~[final]~~ adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive ~~[.]~~ ***, of this act;***

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as the Commissioner may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 68. NRS 695E.110 is hereby amended to read as follows:

695E.110 "Risk retention group" means any corporation or association with limited liability that is formed under the laws of any state, Bermuda or the Cayman Islands:

1. Whose primary activity consists of assuming and spreading all or any portion of the exposure of its ***corporation or association*** members to liability;

2. Which is organized primarily to conduct the activity described in subsection 1;

3. Which:

(a) Is chartered and licensed as a liability insurer and authorized to transact insurance under the laws of any state; or

(b) Before January 1, 1985, was chartered or licensed and authorized to transact insurance under the laws of Bermuda or the Cayman Islands and, before that date, had certified to the Commissioner of Insurance of at least one state that it satisfied the state's requirements for capitalization, except that such a group is considered to be a risk retention group only if it has been engaged in business continuously since that date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability;

4. Which does not exclude any person from membership in the group solely to provide for members of the group a competitive advantage over an excluded person;

5. Which has as its:

(a) ~~[Members]~~ ***Owners*** only persons who ~~[have an ownership interest in the group and who are provided insurance by]~~ ***comprise the membership of***

the risk retention group ~~[:]~~ ***and who are provided insurance by the risk retention group;*** or

(b) Sole owner an organization which has as its:

(1) Members only persons who comprise the membership of the risk retention group; and

(2) Owners only persons who comprise the membership of the risk retention group and who are provided insurance by the group;

6. Whose members are engaged in businesses or activities similar or related with respect to the liability to which they are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations;

7. Whose activities do not include the provision of insurance other than:

(a) Liability insurance for assuming and spreading all or any portion of the liability of the members of the group; and

(b) Reinsurance with respect to the liability of any other risk retention group, or any member of such a group, that is engaged in a business or activity such that the other group or member meets the requirements of subsection 6 for membership in the risk retention group that provides reinsurance; and

8. The name of which includes the phrase "risk retention group."

Sec. 69. NRS 695F.230 is hereby amended to read as follows:

695F.230 1. Each prepaid limited health service organization shall establish a system for the resolution of written complaints submitted by enrollees and providers.

2. The provisions of subsection 1 do not prohibit an enrollee or provider from filing a complaint with the Commissioner or limit the Commissioner's authority to investigate such a complaint.

3. Each prepaid limited health service organization that issues any evidence of coverage that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an enrollee or subscriber concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, ~~*[695G.230,]*~~ inclusive ~~[.]~~ ***, and sections 102 to 112, inclusive, of this act.***

Sec. 70. Chapter 695G of NRS is hereby amended by adding thereto the provisions set forth as sections 71 to 112, inclusive, of this act.

Sec. 71. ~~***[***"Ambulatory review" means utilization review of health care services performed or provided in an outpatient setting.***]***~~ **(Deleted by amendment.)**

Sec. 72. ~~***[***"Best evidence" means evidence based on:***

1. Randomized clinical trials;

2. If randomized clinical trials are not available, cohort studies or case-control studies;

3. If the methods described in subsections 1 and 2 are not available, case-series; or~~

~~*4. If the methods described in subsections 1, 2 and 3 are not available, expert opinion.]*~~ **(Deleted by amendment.)**

Sec. 73. ~~*[“Case control study” means a retrospective evaluation of two groups of patients with different outcomes to determine which specific interventions the patients received.]*~~ **(Deleted by amendment.)**

Sec. 74. ~~*[“Case management” means a coordinated set of activities conducted for individual patient management of serious, complicated, protracted or other health conditions.]*~~ **(Deleted by amendment.)**

Sec. 75. ~~*[“Case series” means an evaluation of a series of patients with a particular outcome, without the use of a control group.]*~~ **(Deleted by amendment.)**

Sec. 76. ~~*[“Clinical review criteria” means the written screening procedures, decision abstracts, clinical protocols and practice guidelines used by a health carrier to determine the medical necessity and appropriateness of health care services.]*~~ **(Deleted by amendment.)**

Sec. 77. ~~*[“Cohort study” means a prospective evaluation of two groups of patients with only one group of patients receiving a specific intervention.]*~~ **(Deleted by amendment.)**

Sec. 78. ~~*[“Concurrent review” means utilization review conducted during a patient’s hospital stay or course of treatment.]*~~ **(Deleted by amendment.)**

Sec. 79. ~~*[“Covered benefits” or “benefits”]*~~ ***“Benefits” means those health care services to which a covered person is entitled under the terms of a health benefit plan.***

Sec. 80. ***“Covered person” means a policyholder, subscriber, enrollee or other person participating in a health benefit plan.***

Sec. 81. ~~*[“Discharge planning” means the formal process for determining, before discharge from a facility, the coordination and management of the care that a patient receives following discharge from the facility.]*~~ **(Deleted by amendment.)**

Sec. 82. ~~*[“Disclose” means to release, transfer or otherwise divulge protected health information to any person other than the person who is the subject of the protected health information.]*~~ **(Deleted by amendment.)**

Sec. 83. ~~*[“Emergency medical condition” means the sudden and, at the time, unexpected onset of a health condition or illness that requires immediate medical attention, where failure to provide medical attention would result in a serious impairment to bodily functions, serious dysfunction of a bodily organ or part or would place the person’s health in serious jeopardy.]*~~ **(Deleted by amendment.)**

Sec. 84. ~~*[“Emergency medical services” means health care items and services furnished or required to evaluate and treat an emergency medical condition.]*~~ **(Deleted by amendment.)**

Sec. 85. ~~*[“Evidence-based standard” means the conscientious, explicit and judicious use of the current best evidence based on the overall*~~

~~*systematic review of research in making decisions about the care of an individual patient.]*~~ **(Deleted by amendment.)**

Sec. 86. ~~*[“Expert opinion” means a belief or an interpretation by specialists with experience in a specific area about the scientific evidence pertaining to a particular service, intervention or therapy.]*~~ **(Deleted by amendment.)**

Sec. 87. ~~*[“Facility” means an institution providing health care services or a health care setting, including, but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings.]*~~ **(Deleted by amendment.)**

Sec. 88. *“Health benefit plan” means a policy, contract, certificate or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services.*

Sec. 89. ~~*[“Health care professional” means a physician or other health care practitioner licensed, accredited or certified to perform specified health care services consistent with state law.]*~~ **(Deleted by amendment.)**

Sec. 90. ~~*[“Health care provider” or “provider of health care” or “provider” means a health care professional or a facility.]*~~ **(Deleted by amendment.)**

Sec. 91. *“Health care services” means services for the diagnosis, prevention, treatment, care or relief of a health condition, illness, injury or disease.*

Sec. 92. *“Health carrier” means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including, without limitation, a sickness and accident health insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health care services.*

Sec. 93. ~~*[“Health information” means information or data, whether oral or recorded in any form or medium, and personal facts or information about events or relationships that relate to:*~~

~~*1. The past, present or future physical, mental or behavioral health or condition of a person or a member of the person’s family;*~~

~~*2. The provision of health care services to a person; or*~~

~~*3. Payment for the provision of health care services to a person.]*~~ **(Deleted by amendment.)**

Sec. 94. *“Medical or scientific evidence” means evidence found in the following sources:*

1. Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized

requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

2. Peer-reviewed medical literature, including literature relating to therapies reviewed and approved by a qualified institutional review board, biomedical compendia and other medical literature that meet the criteria of the National Library of Medicine of the National Institutes of Health for indexing in Index Medicus (MEDLINE) and Elsevier for indexing in Excerpta Medica (EMBASE);

3. Medical journals recognized by the Secretary of Health and Human Services pursuant to section 1861(t)(2) of the Social Security Act, 42 U.S.C. § 1395x;

4. The following standard reference compendia:

(a) AHFS Drug Information published by the American Society of Health-System Pharmacists;

(b) Drug Facts and Comparisons published by Wolter Kluwers Health;

(c) Accepted Dental Therapeutics published by the American Dental Association; and

(d) The United States Pharmacopoeia's Drug Quality and Information Program;

5. Findings, studies or research conducted by or under the auspices of the Federal Government and nationally recognized federal research institutes, including, without limitation:

(a) The Agency for Healthcare Research and Quality;

(b) The National Institutes of Health;

(c) The National Cancer Institute;

(d) The National Academy of Sciences of the National Academies;

(e) The Centers for Medicare and Medicaid Services;

(f) The Food and Drug Administration; and

(g) Any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health care services; or

6. Any other source of medical or scientific evidence that is comparable to the sources listed in subsections 1 to 5, inclusive.

Sec. 95. ~~[*"Prospective review" means utilization review conducted before an admission or a course of treatment.]~~ **(Deleted by amendment.)**

Sec. 96. ~~[*"Protected health information" means health information:*~~

~~*1. That identifies a person who is the subject of the information; or*~~

~~*2. With respect to which there is a reasonable basis to believe that the information could be used to identify a person.]~~ **(Deleted by amendment.)**

Sec. 97. ~~[*"Randomized clinical trial" means a controlled, prospective study of patients that have been randomized into an experimental group and a control group at the beginning of the study with only the experimental group of patients receiving a specific intervention, which includes study of the groups for variables and anticipated outcomes over time.]~~ **(Deleted by amendment.)**

Sec. 98. ~~[*"Retrospective review" means a review of medical necessity conducted after services have been provided to a patient, but does not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding or adjudication for payment.*]~~ **(Deleted by amendment.)**

Sec. 99. ~~[*"Second opinion" means an opportunity or requirement to obtain a clinical evaluation by a provider other than the provider that originally made a recommendation for a proposed health care service to assess the clinical necessity and appropriateness of the proposed health care service.*]~~ **(Deleted by amendment.)**

Sec. 100. ~~[*1. "Utilization review" means a set of formal techniques designed to monitor the use of or evaluate the clinical necessity, appropriateness, efficacy or efficiency of health care services, procedures or settings. Techniques may include ambulatory review, prospective review, second opinion, certification, concurrent review, case management, discharge planning or retrospective review.*~~

~~*2. As used in this section, "certification" means a determination by a health carrier or utilization review organization that an admission, availability of care, continued stay or other health care service has been reviewed and, based on the information provided, satisfies the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care and effectiveness.*]~~ **(Deleted by amendment.)**

Sec. 101. *"Utilization review organization" means an entity designated by a health carrier to conduct utilization reviews.*

Sec. 102. *1. Except as* ***otherwise*** *provided in subsection 2, the provisions of* ***NRS 695G.200 to 695G.310, inclusive, and*** *sections 102 to 112, inclusive, of this act* ~~*[and NRS 695G.200 to 695G.230, inclusive,]*~~ *apply to all health carriers.*

2. The provisions of subsection 1 do not apply to:

(a) A policy or certificate that provides only coverage for:

(1) A specified disease or accident;

(2) Accidents;

(3) Credit dental;

(4) Disability income;

(5) Hospital indemnity;

(6) Long-term care insurance;

(7) Vision care; or

(8) Any other limited supplemental benefit;

(b) A Medicare supplement policy of insurance, as defined in regulations adopted by the Commissioner;

(c) Coverage under a plan through Medicare, Medicaid or the Federal Employees Health Benefits Program, FEHBP, 5 U.S.C. §§ 8901 et seq.;

(d) Any coverage issued under the Civilian Health and Medical Program of the Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq., and any coverage issued as supplemental to that coverage;

(e) Any coverage issued as supplemental to liability insurance;

(f) Workers' compensation or similar insurance;

(g) Automobile medical payment insurance; or

(h) Any insurance under which benefits are payable with or without regard to fault, whether written on a group, blanket or individual basis.

Sec. 103. *1. A health carrier shall notify the covered person in writing of the covered person's right to request an external review to be conducted pursuant to ~~[section 105, 106 or 107]~~ NRS 695G.241 to 695G.310, inclusive, and sections 102 to 112, inclusive, of this act and include the appropriate statements and information set forth in subsection 2 at the same time the health carrier sends written notice of an adverse determination upon completion of the health carrier's utilization review process set forth in NRS 683A.375 to 683A.379, inclusive, and the regulations adopted pursuant thereto.*

2. As part of the written notice required pursuant to subsection 1, a health carrier shall include the following, or substantially equivalent, language:

We have denied your request for the provision of or payment for a health care service or course of treatment. You may have the right to have our decision reviewed by health care professionals who have no association with us if our decision involved making a judgment as to the medical necessity, appropriateness, health care setting, level of care or effectiveness of the health care service or treatment you requested by submitting a request for external review to the Office ~~[of the Commissioner of Insurance.]~~ for Consumer Health Assistance.

3. The Commissioner may prescribe by regulation the form and content of the notice required pursuant to this section.

4. The health carrier shall include in the notice required pursuant to subsection 1 a statement informing the covered person that:

(a) If the covered person has a medical condition where the timeframe for completion of an expedited review of a grievance involving an adverse determination set forth in NRS 695G.200 to 695G.230, inclusive, would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, the covered person or the covered person's authorized representative may, at the same time the covered person or the covered person's authorized representative files a request for an expedited review of a grievance involving an adverse determination as set forth in NRS 695G.210, file a request for an expedited external review to be conducted pursuant to NRS 695G.271 and section ~~[106 or]~~ 107 of this act if the adverse determination involves a denial of coverage based on a determination that the recommended or requested health care service or treatment is experimental or investigational and the covered person's treating physician certifies in writing that the recommended or requested health care service or treatment that is the subject of the adverse determination would be

significantly less effective if not promptly initiated, and the independent review organization assigned to conduct the expedited external review will determine whether the covered person will be required to complete the expedited review of the grievance before conducting the expedited external review; and

(b) The covered person or the covered person's authorized representative may file a grievance under the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive, but if the health carrier has not issued a written decision to the covered person or the covered person's authorized representative within 30 days after the date on which the covered person or the covered person's authorized representative filed the grievance with the health carrier and the covered person or the covered person's authorized representative has not requested or agreed to a delay, the covered person or the covered person's authorized representative may file a request for external review pursuant to ~~[section 105 of this act]~~ NRS 695G.251 and shall be considered to have exhausted the health carrier's internal grievance process.

5. In addition to the information required to be provided pursuant to subsection 1, the health carrier shall include a copy of the description of both the standard and expedited external review procedures the health carrier is required to provide pursuant to section 112 of this act, highlighting the provisions in the external review procedures that give the covered person or the covered person's authorized representative the opportunity to submit additional information and including any forms used to process an external review.

6. As part of any forms provided pursuant to subsection 3, the health carrier shall include an authorization form, or other document approved by the Commissioner that complies with the requirements of 45 C.F.R. § 164.508, by which the covered person, for purposes of conducting an external review, authorizes the health carrier and the covered person's treating health care provider to disclose protected health information, including medical records, concerning the covered person that are pertinent to the external review.

7. As used in this section, "protected health information" has the meaning ascribed to it in 45 C.F.R. § 160.103.

Sec. 104. ***1. Except for a request for an expedited external review as set forth in NRS 695G.271 or section ~~[106 or]~~ 107 of this act, all requests for external review must be made in writing to the ~~[Commissioner.]~~ Office for Consumer Health Assistance.***

2. The Commissioner may prescribe by regulation the form and content of requests for external review required to be submitted pursuant to this section.

3. A covered person or the covered person's authorized representative may submit a request for an external review of an adverse determination.

Sec. 105. ~~[*1. Within 4 months after receipt of a notice of an adverse determination pursuant to section 103 of this act, a covered person or the covered person's authorized representative may file a request for external review with the Commissioner pursuant to this section.*~~

~~*2. Within 1 business day after receipt of a request for external review pursuant to subsection 1, the Commissioner shall send a copy of the request to the health carrier.*~~

~~*3. Within 5 business days after receipt of the copy of the request for external review from the Commissioner pursuant to subsection 2, the health carrier shall conduct and complete a preliminary review of the request to determine whether:*~~

~~*(a) The person is or was a covered person in the health benefit plan at the time the health care service was requested or, in the case of a retrospective review, was a covered person in the health benefit plan at the time the health care service was provided;*~~

~~*(b) The health care service that is the subject of the adverse determination would have been a covered service under the covered person's health benefit plan but for a determination by the health carrier that the health care service is not covered because it does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness;*~~

~~*(c) The covered person has exhausted the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive, unless the covered person is not required to exhaust the health carrier's internal grievance process; and*~~

~~*(d) The covered person has provided all the information and forms required by the Commissioner to process an external review, including the release form provided pursuant to subsection 6 of section 103 of this act.*~~

~~*4. Within 1 business day after completion of the preliminary review, the health carrier shall notify the Commissioner and the covered person, and, if applicable, the covered person's authorized representative, in writing, whether the request is:*~~

~~*(a) Complete;*~~

~~*(b) Eligible for external review;*~~

~~*(c) Not complete, in which case the health carrier shall include in the notice the information or materials that are needed to make the request complete; or*~~

~~*(d) Not eligible for external review, in which case the health carrier shall include in the notice the reasons for its ineligibility.*~~

~~*5. The Commissioner may specify the form for the notice of initial determination pursuant to subsection 4 and any supporting information to be included in the notice.*~~

~~*6. The notice of initial determination must include a statement that a health carrier's initial determination that a request which is ineligible for external review may be appealed to the Commissioner.*~~

~~*7. The Commissioner may determine that a request is eligible for external review pursuant to the provisions of subsection 3 and require that it be referred for external review notwithstanding a health carrier's initial determination pursuant to subsection 3 that the request is ineligible.*~~

~~*8. In making a determination pursuant to subsection 7, the Commissioner's decision must be made in accordance with the terms of the covered person's health benefit plan and is subject to all applicable provisions of sections 102 to 112, inclusive, of this act.*~~

~~*9. When the Commissioner receives a notice that a request is eligible for external review pursuant to subsection 4, within 1 business day after receipt of the notice, the Commissioner shall:*~~

~~*(a) Assign an independent review organization from the list of approved independent review organizations compiled and maintained by the Commissioner pursuant to section 8 of this act to conduct the external review;*~~

~~*(b) Notify the health carrier of the name of the assigned independent review organization; and*~~

~~*(c) Notify in writing the covered person and, if applicable, the covered person's authorized representative that the request is eligible for external review.*~~

~~*10. In reaching a decision, the assigned independent review organization is not bound by any decisions or conclusions reached during the health carrier's utilization review process as set forth in NRS 683A.375 to 683A.379, inclusive, or the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive.*~~

~~*11. The Commissioner shall include in the notice provided to the covered person and, if applicable, the covered person's authorized representative pursuant to subsection 9 a statement that the covered person or the covered person's authorized representative may submit in writing to the assigned independent review organization within 5 business days after receipt of the notice pursuant to subsection 9 additional information that the independent review organization shall consider when conducting the external review. The independent review organization may accept and consider additional information submitted after the 5 business days have elapsed.*~~

~~*12. Within 5 business days after receipt of the notice pursuant to subsection 9, the health carrier or utilization review organization shall provide to the assigned independent review organization any documents and information considered in making the adverse determination.*~~

~~*13. Except as otherwise provided in subsection 14, failure by the health carrier or utilization review organization to provide the documents and information within the time specified in subsection 12 must not delay the conduct of the external review.*~~

~~*14. If the health carrier or utilization review organization fails to provide the documents and information within the time specified in*~~

~~*subsection 12, the assigned independent review organization may terminate the external review and make a decision to reverse the adverse determination.*~~

~~*15. If the independent review organization elects to terminate the external review and reverse the adverse determination pursuant to subsection 14, the independent review organization shall, within 1 business day, notify the covered person, the covered person's authorized representative, if applicable, the health carrier and the Commissioner of that decision.*~~

~~*16. The assigned independent review organization shall review all the information and documents received pursuant to subsections 11 and 12.*~~

~~*17. The assigned independent review organization shall forward any information submitted by the covered person or the covered person's authorized representative pursuant to subsection 11 to the health carrier within 1 business day after receipt of the information.*~~

~~*18. Upon receipt of any information required to be forwarded pursuant to subsection 17, the health carrier may reconsider the adverse determination that is the subject of the external review.*~~

~~*19. Reconsideration by the health carrier of its adverse determination pursuant to subsection 18 must not delay or terminate the external review.*~~

~~*20. Except as otherwise provided in subsection 14, the external review may only be terminated before completion if the health carrier decides, upon completion of its reconsideration, to reverse its adverse determination and provide coverage or payment for the health care service that is the subject of the adverse determination.*~~

~~*21. If the health carrier reverses its adverse determination pursuant to subsection 20, the health carrier shall, within 1 business day, notify the covered person, the covered person's authorized representative, if applicable, the assigned independent review organization and the Commissioner in writing of its decision.*~~

~~*22. The assigned independent review organization shall terminate the external review upon receipt of the notice from the health carrier pursuant to subsection 21.*~~

~~*23. In addition to the documents and information provided pursuant to subsections 11 and 12, the assigned independent review organization, to the extent the information or documents are available and the independent review organization considers them appropriate, shall consider the following in reaching a decision:*~~

~~*(a) The covered person's medical records;*~~

~~*(b) The attending health care professional's recommendation;*~~

~~*(c) Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person, the covered person's authorized representative, if applicable, and the covered person's treating provider;*~~

~~*(d) The terms of coverage under the covered person's health benefit plan with the health carrier to ensure that the independent review organization's decision is not contrary to the terms of coverage under the health benefit plan;*~~

~~*(e) The most appropriate practice guidelines, which must include applicable evidence based standards, and may include any other practice guidelines developed by the Federal Government or any national or professional medical societies, boards and associations;*~~

~~*(f) Any applicable clinical review criteria developed and used by the health carrier or utilization review organization in making adverse determinations; and*~~

~~*(g) The opinion of the independent review organization's clinical reviewers after considering paragraphs (a) to (f), inclusive, to the extent that the materials described in those paragraphs are available and to the extent that the clinical reviewers consider those materials appropriate.*~~

~~*24. Within 45 days after receipt of the request for external review, the assigned independent review organization shall provide written notice of its decision to uphold or reverse the adverse determination to the covered person, the covered person's authorized representative, if applicable, the health carrier and the Commissioner.*~~

~~*25. The independent review organization shall include in the notice sent pursuant to subsection 24:*~~

~~*(a) A general description of the reason for the request for external review;*~~

~~*(b) The date the independent review organization was assigned by the Commissioner to conduct the external review;*~~

~~*(c) The date on which the external review was conducted;*~~

~~*(d) The date of the decision;*~~

~~*(e) The principal reason or reasons for the decision, including any applicable evidence based standards used as a basis for the decision;*~~

~~*(f) The rationale for the decision; and*~~

~~*(g) References to the evidence or documentation, including evidence based standards, considered in reaching the decision.*~~

~~*26. Upon receipt of a notice of a decision pursuant to subsection 24 reversing the adverse determination, the health carrier shall immediately approve the coverage that was the subject of the adverse determination.*~~

~~*27. The assignment by the Commissioner of an approved independent review organization to conduct an external review in accordance with this section must be done on a random basis among those approved independent review organizations qualified to conduct the particular external review based on the nature of the health care service that is the subject of the adverse determination and other circumstances, including concerns regarding conflicts of interest pursuant to subsection 4 of section 9 of this act.]~~ **(Deleted by amendment.)**

Sec. 106. ~~[*1. Except as otherwise provided in subsection 15, a covered person or the covered person's authorized representative may submit a request for an expedited external review pursuant to this section with the Commissioner at the time the covered person receives an adverse determination if:*~~

~~*(a) The adverse determination involves a medical condition of the covered person for which the timeframe for completion of an expedited internal review of a grievance involving an adverse determination set forth in NRS 695G.210 would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function; and*~~

~~*(b) The covered person or the covered person's authorized representative has filed a request for an expedited review of a grievance involving an adverse determination as set forth in NRS 695G.210.*~~

~~*2. Upon receipt of a request for an expedited external review, the Commissioner shall immediately send a copy of the request to the health carrier.*~~

~~*3. Immediately upon receipt of the copy of the request pursuant to subsection 2, the health carrier shall determine whether the request meets the requirements for review set forth in subsection 3 of section 105 of this act. The health carrier shall immediately notify the Commissioner and the covered person and, if applicable, the covered person's authorized representative of its determination regarding eligibility.*~~

~~*4. The Commissioner may specify the form for the notice of initial determination pursuant to subsection 3 and any supporting information to be included in the notice.*~~

~~*5. The notice of initial determination must include a statement that a health carrier's initial determination that a request which is ineligible for external review may be appealed to the Commissioner.*~~

~~*6. The Commissioner may determine that a request is eligible for external review pursuant to subsection 3 of section 105 of this act and require that it be referred for external review notwithstanding a health carrier's initial determination that the request is ineligible.*~~

~~*7. In making a determination pursuant to subsection 6, the Commissioner's decision must be made in accordance with the terms of the covered person's health benefit plan and is subject to all applicable provisions of the external review process.*~~

~~*8. Upon receipt of the notice that the request meets the requirements for review, the Commissioner shall immediately assign an independent review organization to conduct the expedited external review from the list of approved independent review organizations compiled and maintained by the Commissioner pursuant to section 8 of this act. The Commissioner shall immediately notify the health carrier of the name of the assigned independent review organization.*~~

~~*9. In reaching a decision pursuant to subsection 12, the assigned independent review organization is not bound by any decisions or conclusions reached during the health carrier's utilization review process as set forth in NRS 683A.375 to 683A.379, inclusive, or the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive.*~~

~~*10. Upon receipt of the notice pursuant to subsection 8, the health carrier or utilization review organization shall provide or transmit any documents and information considered in making the adverse determination to the assigned independent review organization electronically or by telephone or facsimile or any other available expeditious method.*~~

~~*11. In addition to the documents and information provided or transmitted pursuant to subsection 10, the assigned independent review organization, to the extent the information or documents are available and the independent review organization considers them appropriate, shall consider the following in reaching a decision:*~~

~~*(a) The covered person's medical records;*~~

~~*(b) The attending health care professional's recommendation;*~~

~~*(c) Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person, the covered person's authorized representative or the covered person's treating provider;*~~

~~*(d) The terms of coverage under the covered person's health benefit plan with the health carrier to ensure that the independent review organization's decision is not contrary to the terms of coverage under the health benefit plan;*~~

~~*(e) The most appropriate practice guidelines, which must include applicable evidence based standards, and may include any other practice guidelines developed by the Federal Government or any national or professional medical societies, boards and associations;*~~

~~*(f) Any applicable clinical review criteria developed and used by the health carrier or utilization review organization in making adverse determinations; and*~~

~~*(g) The opinion of the independent review organization's clinical reviewers after considering paragraphs (a) to (f), inclusive, to the extent that the materials described in those paragraphs are available and to the extent that the clinical reviewers consider those materials appropriate.*~~

~~*12. As expeditiously as the covered person's medical condition or circumstances require, but in no event more than 72 hours after receipt of the request for an expedited external review that meets the requirements for review set forth in subsection 3 of section 105 of this act, the assigned independent review organization shall:*~~

~~*(a) Make a decision to uphold or reverse the adverse determination; and*~~

~~*(b) Notify the covered person, the covered person's authorized representative, if applicable, the health carrier and the Commissioner of the decision.*~~

~~*13. If the notice provided pursuant to subsection 12 was not in writing, within 48 hours after providing that notice, the assigned independent review organization shall:*~~

~~*(a) Provide written confirmation of the decision to the covered person, the covered person's authorized representative, if applicable, the health carrier and the Commissioner; and*~~

~~*(b) Include the information set forth in subsection 25 of section 105 of this act.*~~

~~*14. Upon receipt of a notice of a decision pursuant to subsection 12 reversing the adverse determination, the health carrier shall immediately approve the coverage that was the subject of the adverse determination.*~~

~~*15. An expedited external review may not be provided for retrospective adverse determinations.*~~

~~*16. The assignment by the Commissioner of an approved independent review organization to conduct an external review in accordance with this section must be done on a random basis among those approved independent review organizations qualified to conduct the particular external review based on the nature of the health care service that is the subject of the adverse determination and other circumstances, including concerns regarding conflicts of interest pursuant to subsection 4 of section 9 of this act.]*~~ **(Deleted by amendment.)**

Sec. 107. *1. Within 4 months after receipt of a notice of an adverse determination pursuant to section 103 of this act that involves a denial of coverage based on a determination that the health care service or treatment recommended or requested is experimental or investigational, a covered person or the covered person's authorized representative may file a request for external review with the* ~~*[Commissioner]*~~ *Office for Consumer Health Assistance pursuant to this section.*

2. A covered person or the covered person's authorized representative may make an oral request for an expedited external review of the adverse determination pursuant to section 103 of this act that involves a denial of coverage based on a determination that the health care service or treatment recommended or requested is experimental or investigational if the covered person's treating physician certifies, in writing, that the recommended or requested health care service or treatment that is the subject of the request would be significantly less effective if not promptly initiated.

3. Upon receipt of a request for an expedited external review pursuant to subsection 2, the ~~*[Commissioner]*~~ *Office for Consumer Health Assistance shall immediately notify the health carrier.*

4. Immediately upon notice of a request for an expedited external review pursuant to subsection 2, the health carrier shall determine whether the request meets the requirements for review set forth in subsection 12.

The health carrier shall immediately notify the ~~[Commissioner]~~ Office for Consumer Health Assistance and the covered person and, if applicable, the covered person's authorized representative, of its determination regarding eligibility.

5. The Commissioner may specify the form for the notice of initial determination pursuant to subsection 4 and any supporting information to be included in the notice.

6. The notice of initial determination required by subsection 4 must include a statement that a health carrier's initial determination that a request which is ineligible for external review may be appealed to the ~~[Commissioner.]~~ Office for Consumer Health Assistance.

7. The ~~[Commissioner]~~ Office for Consumer Health Assistance may determine that a request for an expedited external review is eligible for external review pursuant to subsection 12 and require that it be referred for expedited external review notwithstanding a health carrier's initial determination that the request is ineligible.

8. In making a determination pursuant to subsection 7, the ~~[Commissioner's]~~ decision of the Office for Consumer Health Assistance must be made in accordance with the terms of the covered person's health benefit plan and is subject to all applicable provisions of the external review process.

9. Upon receipt of the notice that the request for expedited external review meets the requirements for review, the ~~[Commissioner]~~ Office for Consumer Health Assistance shall immediately assign an independent review organization to conduct the expedited external review from the list of approved independent review organizations compiled and maintained by the Commissioner pursuant to section 8 of this act and notify the health carrier of the name of the assigned independent review organization.

10. Upon receipt of the notice pursuant to subsection 9, the health carrier or utilization review organization shall provide or transmit any documents and information considered in making the adverse determination to the assigned independent review organization electronically or by telephone or facsimile, or any other available expeditious method.

11. Except as otherwise provided in subsection 3, within 1 business day after receipt of a request for external review pursuant to subsection 1, the ~~[Commissioner]~~ Office for Consumer Health Assistance shall notify the health carrier.

12. Within 5 business days after receipt of the notice sent pursuant to subsection 11, the health carrier shall conduct and complete a preliminary review of the request to determine whether:

(a) The person is or was a covered person in the health benefit plan at the time the health care service or treatment was recommended or requested or, in the case of a retrospective review, was a covered person in

the health benefit plan at the time the health care service or treatment was provided;

(b) The recommended or requested health care service or treatment that is the subject of the adverse determination:

(1) Would be a covered benefit under the covered person's health benefit plan but for the health carrier's determination that the health care service or treatment is experimental or investigational for a particular medical condition; and

(2) Is not explicitly listed as an excluded benefit under the covered person's health benefit plan;

(c) The covered person's treating physician has certified that one of the following situations is applicable:

(1) Standard health care services or treatments have not been effective in improving the condition of the covered person;

(2) Standard health care services or treatments are not medically appropriate for the covered person; or

(3) There is no available standard health care service or treatment covered by the health carrier that is more beneficial than the recommended or requested health care service or treatment described in paragraph (d);

(d) The covered person's treating physician:

(1) Has recommended a health care service or treatment that the physician certifies, in writing, is likely to be more beneficial to the covered person, in the physician's opinion, than any available standard health care services or treatments; or

(2) Who is a licensed, board certified or board eligible physician qualified to practice in the area of medicine appropriate to treat the covered person's condition, has certified in writing that scientifically valid studies using accepted protocols demonstrate that the health care service or treatment requested by the covered person that is the subject of the adverse determination is likely to be more beneficial to the covered person than any available standard health care services or treatments;

(e) The covered person has exhausted the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive, unless the covered person is not required to exhaust the health carrier's internal grievance process; and

(f) The covered person has provided all the information and forms required by the ~~[Commissioner]~~ Office for Consumer Health Assistance to process an external review, including the release form provided pursuant to subsection 6 of section 103 of this act.

13. Within 1 business day after completion of the preliminary review, the health carrier shall notify the ~~[Commissioner]~~ Office for Consumer Health Assistance and the covered person, and, if applicable, the covered person's authorized representative, in writing, whether the request is:

(a) Complete;

(b) Eligible for external review;

(c) Not complete, in which case the health carrier shall include in the notice the information or materials that are needed to make the request complete; or

(d) Not eligible for external review, in which case the health carrier shall include in the notice the reasons for its ineligibility.

14. The Commissioner may specify the form for the notice of initial determination pursuant to subsection 13 and any supporting information to be included in the notice.

15. The notice of initial determination must include a statement informing the covered person and, if applicable, the covered person's authorized representative that a health carrier's initial determination that a request which is ineligible for external review may be appealed to the ~~[Commissioner.]~~ Office for Consumer Health Assistance.

16. The ~~[Commissioner]~~ Office for Consumer Health Assistance may determine that a request is eligible for external review pursuant to subsection 12 and require that it be referred for external review notwithstanding a health carrier's initial determination that the request is ineligible.

17. In making a determination pursuant to subsection 16, the ~~[Commissioner's]~~ decision of the Office for Consumer Health Assistance must be made in accordance with the terms of the covered person's health benefit plan and is subject to all applicable provisions of the external review process.

18. When a health carrier determines that a request is eligible for external review pursuant to subsection 12, the health carrier shall notify the ~~[Commissioner]~~ Office for Consumer Health Assistance and the covered person and, if applicable, the covered person's authorized representative.

19. Within 1 business day after receipt of the notice from the health carrier that the external review request is eligible for external review pursuant to subsection 18, the ~~[Commissioner]~~ Office for Consumer Health Assistance shall:

(a) Assign an independent review organization from the list of approved independent review organizations compiled and maintained by the Commissioner pursuant to section 8 of this act to conduct the external review;

(b) Notify the health carrier of the name of the assigned independent review organization; and

(c) Notify in writing the covered person and, if applicable, the covered person's authorized representative that the request is eligible for external review and provide the name of the assigned independent review organization.

20. The ~~[Commissioner]~~ Office for Consumer Health Assistance shall include in the notice provided to the covered person and, if applicable, the covered person's authorized representative pursuant to subsection 19 a

statement that the covered person or the covered person's authorized representative may submit in writing to the assigned independent review organization within 5 business days after receipt of the notice provided pursuant to subsection 19 additional information that the independent review organization shall consider when conducting the external review. The independent review organization may accept and consider additional information submitted after the 5 business days have elapsed.

21. Within 1 business day after receipt of the notice of assignment to conduct the external review pursuant to subsection 19, the assigned independent review organization shall:

(a) Select one or more clinical reviewers to conduct the external review, as it determines is appropriate; and

(b) Based on the opinion of the clinical reviewer, or opinions if more than one clinical reviewer has been selected to conduct the external review, make a decision to uphold or reverse the adverse determination.

22. In selecting clinical reviewers pursuant to paragraph (a) of subsection 21, the assigned independent review organization shall select health care professionals who meet the minimum qualifications described in section 9 of this act and through clinical experience in the past 3 years, are experts in the treatment of the covered person's condition and knowledgeable about the recommended or requested health care service or treatment.

23. The covered person, the covered person's authorized representative, if applicable, and the health carrier may not choose or control the choice of the health care professionals to be selected to conduct the external review.

24. In accordance with subsections 37 to 41, inclusive, each clinical reviewer shall provide a written opinion to the assigned independent review organization regarding whether the recommended or requested health care service or treatment should be covered.

25. In reaching an opinion, clinical reviewers are not bound by any decisions or conclusions reached during the health carrier's utilization review process as set forth in NRS 683A.375 to 683A.379, inclusive, or the health carrier's internal grievance process as set forth in NRS 695G.200 to 695G.230, inclusive.

26. Within 5 business days after receipt of the notice pursuant to subsection 19, the health carrier or utilization review organization shall provide to the assigned independent review organization any documents and information considered in making the adverse determination.

27. Except as otherwise provided in subsection 28, failure by the health carrier or utilization review organization to provide the documents and information within the time specified in subsection 26 must not delay the conduct of the external review.

28. If the health carrier or utilization review organization fails to provide the documents and information within the time specified in

subsection 26, the assigned independent review organization may terminate the external review and make a decision to reverse the adverse determination.

29. If the independent review organization elects to terminate the external review and reverse the adverse determination pursuant to subsection 28, the independent review organization shall immediately notify the covered person, the covered person's authorized representative, if applicable, the health carrier and the ~~[Commissioner.]~~ Office for Consumer Health Assistance.

30. Each clinical reviewer selected pursuant to subsection 21 shall review all the information and documents received pursuant to subsections 20 and 26.

31. The assigned independent review organization shall forward any information submitted by the covered person or the covered person's authorized representative pursuant to subsection 20 to the health carrier within 1 business day after receipt of the information.

32. Upon receipt of the information required to be forwarded pursuant to subsection 31, the health carrier may reconsider the adverse determination that is the subject of the external review.

33. Reconsideration by the health carrier of its adverse determination pursuant to subsection 32 must not delay or terminate the external review.

34. Except as otherwise provided in subsection 28, the external review may only be terminated before completion if the health carrier decides, upon completion of its reconsideration, to reverse its adverse determination and provide coverage or payment for the recommended or requested health care service or treatment that is the subject of the adverse determination.

35. If the health carrier reverses its adverse determination pursuant to subsection 28, the health carrier shall immediately notify the covered person, the covered person's authorized representative, if applicable, the assigned independent review organization and the ~~[Commissioner]~~ Office for Consumer Health Assistance in writing of its decision.

36. The assigned independent review organization shall terminate the external review upon receipt of the notice from the health carrier pursuant to subsection 35.

37. Except as otherwise provided in subsection 39, within 20 days after being selected in accordance with subsection 21 to conduct the external review, each clinical reviewer shall provide an opinion to the assigned independent review organization pursuant to subsection 41 regarding whether the recommended or requested health care service or treatment should be covered.

38. Except for an opinion provided pursuant to subsection 39, each clinical reviewer's opinion must be in writing and include the following:

(a) A description of the covered person's medical condition;

(b) A description of the indicators relevant to determine if there is sufficient evidence to demonstrate that the recommended or requested

health care service or treatment is more likely to be beneficial to the covered person than any available standard health care services or treatments and the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of available standard health care services or treatments;

(c) A description and analysis of any medical or scientific evidence considered in reaching the opinion;

(d) A description and analysis of any evidence-based standards used as a basis for the opinion; and

(e) Information concerning whether the reviewer's rationale for the opinion is based on the provisions of subsection 41.

39. For an expedited external review, each clinical reviewer shall provide an opinion orally or in writing to the assigned independent review organization as expeditiously as the covered person's medical condition or circumstances requires, but in no event not more than 5 calendar days after being selected in accordance with subsection 21.

40. If the opinion provided pursuant to subsection 39 was not in writing, within 48 hours after providing that notice, the clinical reviewer shall provide written confirmation of the opinion to the assigned independent review organization and include the information required pursuant to subsection 38.

41. In addition to the documents and information provided pursuant to subsections 10 and 26, each clinical reviewer, to the extent the information or documents are available and the reviewer considers them appropriate, shall consider the following in reaching an opinion:

(a) The covered person's medical records;

(b) The attending health care professional's recommendation;

(c) Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person, the covered person's authorized representative or the covered person's treating provider;

(d) The terms of coverage under the covered person's health benefit plan with the health carrier to ensure that, but for the health carrier's determination that the recommended or requested health care service or treatment that is the subject of the opinion is experimental or investigational, the reviewer's opinion is not contrary to the terms of coverage under the health benefit plan; and

(e) Whether:

(1) The recommended or requested health care service or treatment has been approved by the Food and Drug Administration, if applicable, for the condition; or

(2) Medical or scientific evidence or evidence-based standards demonstrate that the expected benefits of the recommended or requested health care service or treatment is more likely to be beneficial to the covered person than any available standard health care services or

treatments and the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of available standard health care services or treatments.

42. Except as otherwise provided in subsection 43, within 20 days after receipt of the opinion of each clinical reviewer pursuant to subsection 41, the assigned independent review organization, in accordance with subsection 45 or 46, shall make a decision and provide written notice of the decision to the covered person, the covered person's authorized representative, if applicable, the health carrier and the [Commissioner] Office for Consumer Health Assistance and include the information required pursuant to subsection 50.

43. For an expedited external review, within 48 hours after receipt of the opinion of each clinical reviewer pursuant to subsection 41, the assigned independent review organization, in accordance with subsection 45 or 46, shall make a decision and provide notice of the decision orally or in writing to the covered person, the covered person's authorized representative, if applicable, the health carrier and the [Commissioner.] Office for Consumer Health Assistance.

44. If the notice provided pursuant to subsection 43 was not in writing, within 48 hours after providing that notice, the assigned independent review organization shall provide written confirmation of the decision to the covered person, the covered person's authorized representative, if applicable, the health carrier and the [Commissioner] Office for Consumer Health Assistance and include the information required pursuant to subsection 50.

45. If a majority of the clinical reviewers recommend that the recommended or requested health care service or treatment should be covered, the independent review organization shall make a decision to reverse the health carrier's adverse determination.

46. If a majority of the clinical reviewers recommend that the recommended or requested health care service or treatment should not be covered, the independent review organization shall make a decision to uphold the health carrier's adverse determination.

47. If the clinical reviewers are evenly split as to whether the recommended or requested health care service or treatment should be covered, the independent review organization shall obtain the opinion of an additional clinical reviewer in order for the independent review organization to make a decision based on the opinions of a majority of the clinical reviewers pursuant to subsection 45 or 46.

48. The additional clinical reviewer selected pursuant to subsection 47 shall use the same information to reach an opinion as the clinical reviewers who have already submitted their opinions pursuant to subsection 41.

49. The selection of an additional clinical reviewer pursuant to subsection 47 must not extend the time within which the assigned

independent review organization is required to make a decision based on the opinions of the clinical reviewers pursuant to subsection 42.

50. The independent review organization shall include in the notice provided pursuant to subsection 42 or 44:

(a) A general description of the reason for the request for external review;

(b) The written opinion of each clinical reviewer, including the recommendation of each clinical reviewer as to whether the recommended or requested health care service or treatment should be covered and the rationale for the reviewer's recommendation;

(c) The date the independent review organization was assigned by the ~~[Commissioner]~~ Office for Consumer Health Assistance to conduct the external review;

(d) The date on which the external review was conducted;

(e) The date of the decision;

(f) The principal reason or reasons for the decision; and

(g) The rationale for the decision.

51. Upon receipt of a notice of a decision pursuant to subsection 42 or 44 reversing the adverse determination, the health carrier shall immediately approve coverage of the recommended or requested health care service or treatment that was the subject of the adverse determination.

52. The assignment by the ~~[Commissioner]~~ Office for Consumer Health Assistance of an approved independent review organization to conduct an external review in accordance with this section must be done on a random basis among those approved independent review organizations qualified to conduct the particular external review based on the nature of the health care service or treatment that is the subject of the adverse determination and other circumstances, including concerns regarding conflicts of interest pursuant to subsection 4 of section 9 of this act.

53. As used in this section:

(a) "Best evidence" means evidence based on:

(1) Randomized clinical trials;

(2) If randomized clinical trials are not available, cohort studies or case-control studies;

(3) If the methods described in subparagraphs (1) and (2) are not available, case series; or

(4) If the methods described in subparagraphs (1), (2) and (3) are not available, expert opinion.

(b) "Evidence-based standard" means the conscientious, explicit and judicious use of the current best evidence based on the overall systematic review of research in making decisions about the care of an individual patient.

(c) "Randomized clinical trial" means a controlled, prospective study of patients who have been randomized into an experimental group and a

control group at the beginning of the study with only the experimental group of patients receiving a specific intervention, which includes study of the groups for variables and anticipated outcomes over time.

Sec. 108. ~~*[1. An external review decision is binding on the health carrier except to the extent the health carrier has other remedies available under federal or state law.*~~

~~*2. An external review decision is binding on the covered person except to the extent the covered person has other remedies available under federal or state law.*~~

~~*3. A covered person or the covered person's authorized representative may not file a subsequent request for external review involving the same adverse determination for which the covered person has already received an external review decision.]*~~ **(Deleted by amendment.)**

Sec. 109. ~~*[No independent review organization, clinical reviewer working on behalf of an independent review organization or employee, agent or contractor of an independent review organization is liable for damages to any person for any opinions rendered or acts or omissions performed within the scope of the organization's or person's duties under the law during or upon completion of an external review conducted pursuant to sections 102 to 112, inclusive, of this act, unless the opinion was rendered or act or omission performed in bad faith or involved gross negligence.]*~~ **(Deleted by amendment.)**

Sec. 110. ***1. An independent review organization assigned pursuant to NRS 695G.251 or 695G.271 or section*** ~~*[105, 106 or]*~~ ***107 of this act to conduct an external review shall maintain written records, aggregated for each state and for each health carrier, on all requests for which it conducted an external review during a calendar year and, upon request, submit a report to the*** ~~*[Commissioner]*~~ ***Office for Consumer Health Assistance in a format specified by the Commissioner.***

2. The report must include, aggregated for each state and for each health carrier:

(a) The total number of requests for external review;

(b) The number of requests for external review resolved and, of those resolved, the number upholding the adverse determination and the number reversing the adverse determination;

(c) The average length of time for resolution;

(d) A summary of the types of coverages or cases for which an external review was sought;

(e) The number of external reviews that were terminated as the result of a reconsideration by the health carrier of its adverse determination after receipt of additional information from the covered person or the covered person's authorized representative pursuant to subsection ~~*[18 of section 105 of this act]*~~ ***4 of NRS 695G.251 and subsection 32 of section 107 of this act; and***

(f) Any other information the ~~[Commissioner]~~ Office for Consumer Health Assistance may request or require.

3. An independent review organization shall retain the written records required pursuant to this section for at least 3 years.

4. Each health carrier shall maintain written records, aggregated for each state and for each type of health benefit plan offered by the health carrier, on all requests for external review for which the health carrier receives notice from the ~~[Commissioner]~~ Office for Consumer Health Assistance and, upon request, submit a report to the ~~[Commissioner]~~ Office for Consumer Health Assistance in a format specified by the Commissioner.

5. The report must include, aggregated for each state and for each type of health benefit plan:

(a) The total number of requests for external review;

(b) Of the total number of requests for external review, the number of requests determined to be eligible for external review; and

(c) Any other information the ~~[Commissioner]~~ Office for Consumer Health Assistance may request or require.

6. A health carrier shall retain the written records required pursuant to this section for at least 3 years.

Sec. 111. ***~~[The health carrier against which a request for an external review or an expedited external review is filed shall pay the costs of the services provided by an independent review organization.]~~*** **(Deleted by amendment.)**

Sec. 112. ***1. A health carrier shall include a description of the external review procedures in or attached to the policy, certificate, membership booklet, outline of coverage or other evidence of coverage it provides to covered persons.***

2. The description required by subsection 1 must be in a format prescribed by the Commissioner.

3. The description required by subsection 1 must include a statement that informs the covered person of the right of the covered person to file a request for an external review of an adverse determination with the ~~[Commissioner.]~~ Office for Consumer Health Assistance. The statement may explain that external review is available when the adverse determination involves an issue of medical necessity, appropriateness, health care setting, level of care or effectiveness. The statement must include the telephone number and address of the ~~[Commissioner.]~~ Office for Consumer Health Assistance.

4. In addition to the requirements of subsection 3, the statement must inform the covered person that, when filing a request for an external review, the covered person will be required to authorize the release of any medical records of the covered person that may be required to be reviewed for the purpose of reaching a decision on the external review.

Sec. 113. NRS 695G.010 is hereby amended to read as follows:

695G.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~[695G.020]~~ ***695G.012*** to 695G.080, ~~*[695G.070,]*~~ inclusive, ***and sections 71 to 101, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 114. NRS 695G.012 is hereby amended to read as follows:

695G.012 "Adverse determination" means a determination ~~[of a managed care organization to deny all or part of a service or procedure that is proposed or being provided to an insured on the basis that it is not medically necessary or appropriate or is experimental or investigational. The term does not include a determination of a managed care organization that such an allocation is not a covered benefit.]~~ ***by a health carrier or utilization review organization that an admission, availability of care, continued stay or other health care service that is a covered benefit has been reviewed and, based upon the information provided, does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the requested service or payment for the service is therefore denied, reduced or terminated.***

Sec. 115. NRS 695G.014 is hereby amended to read as follows:

695G.014 "Authorized representative" means ~~[a]~~ ***:***

1. A person ~~[who has obtained the consent of an insured]~~ ***to whom a covered person has given express written consent*** to represent ~~[him or her]~~ ***the covered person*** in an external review of a final adverse determination conducted pursuant to NRS 695G.241 to 695G.310, inclusive ~~[.]~~ ~~*[;]*~~ ***, and sections 102 to 112, inclusive, of this act;***

2. A person authorized by law to provide substituted consent for a covered person; or

3. A family member of a covered person or the covered person's treating provider only when the covered person is unable to provide consent.

Sec. 116. NRS 695G.018 is hereby amended to read as follows:

695G.018 ~~["External]~~ ***"Independent*** review organization" means an ~~[organization]~~ ***entity*** that:

1. Conducts an ***independent*** external review of ~~[a final]~~ ***an*** adverse determination; and

2. Is certified by the Commissioner in accordance with ~~[NRS 683A.371.]~~ ***sections 8 and 9 of this act.***

Sec. 116.3. **NRS 695G.070 is hereby amended to read as follows:**

695G.070 "Provider of health care" means **[**~~any~~**]** ***:***

1. A physician ~~[, hospital]~~ or other **[**~~person~~**]** ***health care practitioner*** who is licensed or otherwise authorized in this State to furnish any health care service ~~[.]~~ ***; and***

2. An institution providing health care services or other setting in which health care services are provided, including, without limitation, a hospital, surgical center for ambulatory patients, facility for skilled

nursing, residential facility for groups, laboratory and any other such licensed facility.

Sec. 116.7. **NRS 695G.080 is hereby amended to read as follows:**

695G.080 1. "Utilization review" means the various methods that may be used **[**~~by a managed care organization~~**]** to review the amount and appropriateness of the provision of a specific health care service**.** **[**~~to an insured.~~**]**

2. The term does not include an external review of **[**~~a final~~**]** ***an*** adverse determination conducted pursuant to NRS 695G.241 to 695G.310, inclusive **[**~~.~~**]** ***, and sections 102 to 112, inclusive, of this act.***

Sec. 117. ~~[NRS 695G.210 is hereby amended to read as follows:~~

~~695G.210 1. [Except as otherwise provided in NRS 695G.300, a] A system for resolving complaints created pursuant to NRS 695G.200 must include, without limitation, an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members of the review board must be insureds who receive health care services from the managed care organization.~~

~~2. Except as otherwise provided in subsection 3, a review board shall complete its review regarding a complaint or appeal and notify the insured of its determination not later than 30 days after the complaint or appeal is filed, unless the insured and the review board have agreed to a longer period.~~

~~3. If a complaint involves an imminent and serious threat to the health of the insured, the managed care organization shall inform the insured immediately of the right of the insured to an expedited review of the insured's complaint. If an expedited review is required, the review board shall notify the insured in writing of its determination within 72 hours after the complaint is filed.~~

~~4. Notice provided to an insured by a review board regarding a complaint must include, without limitation, an explanation of any further rights of the insured regarding the complaint that are available under the health care plan of the insured.]~~ **(Deleted by amendment.)**

Sec. 118. NRS 695G.230 is hereby amended to read as follows:

695G.230 1. After approval by the Commissioner, each managed care organization shall provide a written notice to an insured, in clear and comprehensible language that is understandable to an ordinary layperson, explaining the right of the insured to file a written complaint and to obtain an expedited review pursuant to NRS 695G.210. Such a notice must be provided to an insured:

(a) At the time the insured receives his or her certificate of coverage or evidence of coverage;

(b) Any time that the managed care organization denies coverage of a health care service or limits coverage of a health care service to an insured; and

(c) Any other time deemed necessary by the Commissioner.

2. If a managed care organization denies coverage of a health care service to an insured, including, without limitation, a health maintenance organization that denies a claim related to a health care plan pursuant to NRS 695C.185, it shall notify the insured in writing within 10 working days after it denies coverage of the health care service of:

(a) The reason for denying coverage of the service;

(b) The criteria by which the managed care organization or insurer determines whether to authorize or deny coverage of the health care service;

(c) The right of the insured to:

(1) File a written complaint and the procedure for filing such a complaint;

(2) Appeal ~~[a final]~~ ***an*** adverse determination pursuant to NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive ~~[,]~~ ***, of this act;***

(3) Receive an expedited external review of ~~[a final]~~ ***an*** adverse determination if the managed care organization receives proof from the insured's provider of health care that failure to proceed in an expedited manner may jeopardize the life or health of the insured, including notification of the procedure for requesting the expedited external review; and

(4) Receive assistance from any person, including an attorney, for an external review of ~~[a final]~~ ***an*** adverse determination; and

(d) The telephone number of the Office for Consumer Health Assistance.

3. A written notice which is approved by the Commissioner shall be deemed to be in clear and comprehensible language that is understandable to an ordinary layperson.

Sec. 118.1. **NRS 695G.241 is hereby amended to read as follows:**

695G.241 **[**~~1. For~~**]** ***Except as otherwise required for an expedited external review pursuant to NRS 695G.271 or section 107 of this act, for*** the purposes of NRS 695G.200 to 695G.310, inclusive, ***and sections 102 to 112, inclusive, of this act,*** an adverse determination **[**~~is final if the insured has exhausted all procedures set forth in the health care plan for reviewing the adverse determination within the managed care organization.~~

~~2. An adverse determination shall be deemed final for the purpose of submitting the adverse determination to an external review organization for~~**]** ***may be subject to*** an external review:

[~~(a)~~**]** ***1.*** If **[**~~an insured~~**]** ***a covered person*** exhausts all procedures set forth in the health care plan for reviewing the adverse determination within the **[**~~managed care organization~~**]** ***health carrier*** and the **[**~~managed care organization~~**]** ***health carrier*** fails to render a decision within the period required to render that decision set forth in the health care plan; or

[(b)**]** ***2.*** If the **[**~~managed care organization submits~~**]** ***health carrier allows the covered person to submit*** the adverse determination to the **[**~~external~~**]** ***independent*** review organization without requiring the **[**~~insured~~**]** ***covered person*** to exhaust all procedures set forth in the health care plan for

reviewing the adverse determination within the **[**~~managed care organization.~~**]** ***health carrier.***

Sec. 118.2. **NRS 695G.251 is hereby amended to read as follows:**

695G.251 1. If **[**~~an insured~~**]** ***a covered person*** or a physician of **[**an insured**]** ***a covered person*** receives notice of **[**~~a final~~**]** ***an*** adverse determination from a **[**~~managed care organization~~**]** ***health carrier*** concerning the **[**~~insured, and if the insured is required to pay $500 or more for the health care services that are the subject of the final adverse determination, the insured,~~**]** ***covered person, the covered person,*** the physician of the **[**~~insured~~**]** ***covered person*** or an authorized representative may, within **[**~~60 days~~**]** ***4 months*** after receiving notice of the **[**~~final~~**]** adverse determination, submit a request to the **[**~~managed care organization~~**]** ***Office for Consumer Health Assistance*** for an external review of the **[**~~final~~**]** adverse determination.

2. Within 5 days after receiving a request pursuant to subsection 1, the **[**managed care organization**]** ***Office for Consumer Health Assistance*** shall notify the **[**~~insured,~~**]** ***covered person,*** the authorized representative or physician of the **[**~~insured,~~**]** ***covered person,*** the agent who performed utilization review for the **[**~~managed care organization,~~**]** ***health carrier,*** if any, and the **[**~~Office for Consumer Health Assistance~~**]** ***health carrier*** that the request has been filed with the **[**~~managed care organization.~~**]** ***Office for Consumer Health Assistance.***

3. As soon as practicable after receiving a **[**~~notice~~**]** ***request*** pursuant to subsection **[**~~2,~~**]** ***1,*** the Office for Consumer Health Assistance shall assign an **[**~~external~~**]** ***independent*** review organization from the list maintained pursuant to **[**~~NRS 683A.371.~~**]** ***section 8 of this act.*** Each assignment made pursuant to this subsection must be completed on a rotating basis.

4. Within 5 days after receiving notification from the Office for Consumer Health Assistance specifying the **[**~~external~~**]** ***independent*** review organization assigned pursuant to subsection 3, the **[**~~managed care organization~~**]** ***health carrier*** shall provide to the **[**~~external~~**]** ***independent*** review organization all documents and materials relating to the **[**~~final~~**]** adverse determination, including, without limitation:

(a) Any medical records of the insured relating to the external review;

(b) A copy of the provisions of the health **[**~~care~~**]** ***benefit*** plan upon which the **[**~~final~~**]** adverse determination was based;

(c) Any documents used by the **[**~~managed care organization~~**]** ***health carrier*** to make the **[**~~final~~**]** adverse determination;

(d) The reasons for the **[**~~final~~**]** adverse determination; and

(e) Insofar as practicable, a list that specifies each provider of health care who has provided health care to the **[**~~insured~~**]** ***covered person*** and the medical records of the provider of health care relating to the external review.

Sec. 118.3. **NRS 695G.261 is hereby amended to read as follows:**

695G.261 1. Except as otherwise provided in NRS 695G.271 **[**~~,~~**]** ***and section 107 of this act,*** upon receipt of a request for an external review

pursuant to NRS 695G.251, the **[**~~external~~**]** ***independent*** review organization shall, within 5 days after receiving the request:

(a) Review the request and the documents and materials submitted pursuant to NRS 695G.251; and

(b) Notify the **[**~~insured,~~**]** ***covered person,*** the physician of the **[**~~insured~~**]** ***covered person*** and the **[**~~managed care organization~~**]** ***health carrier*** if any additional information is required to conduct a review of the **[**~~final~~**]** adverse determination. ***Such additional information must be provided within 5 days after receiving notice that the information is required to conduct a review of the adverse determination. The independent review organization shall forward to the health carrier, within 1 business day after receipt, any information received from a covered person or the physician of a covered person.***

2. Except as otherwise provided in NRS 695G.271 **[**~~,~~**]** ***and section 107 of this act,*** the **[**~~external~~**]** ***independent*** review organization shall approve, modify or reverse the **[**~~final~~**]** adverse determination within 15 days after it receives the information required to make that determination pursuant to this section. The **[**~~external~~**]** ***independent*** review organization shall submit a copy of its determination, including the reasons therefor, to:

(a) The **[**~~insured;~~**]** ***covered person;***

(b) The physician of the **[**~~insured;~~**]** ***covered person;***

(c) The authorized representative of the **[**~~insured,~~**]** ***covered person,*** if any; and

(d) The **[**~~managed care organization.~~**]** ***health carrier.***

Sec. 118.4. **NRS 695G.271 is hereby amended to read as follows:**

695G.271 1. **[**~~A managed care organization~~**]** ***The Office for Consumer Health Assistance*** shall approve or deny a request for an external review of **[**~~a final~~**]** ***an*** adverse determination in an expedited manner not later than 72 hours after it receives proof from the **[**~~insured's~~**]** provider of health care ***of the covered person*** that **[**~~failure~~**]** ***:***

(a) The adverse determination concerns an admission, availability of care, continued stay or health care service for which the covered person received emergency services but has not been discharged from the facility providing the services or care; or

(b) Failure to proceed in an expedited manner may jeopardize the life or health of the **[**~~insured.~~**]** ***covered person or the ability of the covered person to regain maximum function.***

2. If **[**~~a managed care organization~~**]** ***the Office for Consumer Health Assistance*** approves a request for an external review pursuant to subsection 1, the **[**~~managed care organization~~**]** ***Office for Consumer Health Assistance*** shall **[**~~:~~

~~(a) In accordance with subsections 4 and 5,~~**]** assign the request to an **[**external**]** ***independent*** review organization not later than 1 working day after approving the request ***.*** **[**~~; and~~

~~(b) At the time of~~ **]** ***Each assignment made by the Office for Consumer Health Assistance pursuant to this section must be completed on a rotating basis.***

3. Within 24 hours after receiving notice of the Officer for Consumer Health Assistance assigning the request, ***the health carrier shall*** provide to the **[**~~external~~**]** ***independent*** review organization all documents and materials specified in subsection 4 of NRS 695G.251.

[~~3.~~**]** ***4.*** An **[**~~external~~**]** ***independent*** review organization that is assigned to conduct an external review pursuant to subsection 2 shall, if it accepts the assignment:

(a) Complete its external review not later than **[**~~2 working days~~**]** ***48 hours*** after receiving the assignment, unless the **[**~~insured~~**]** ***covered person*** and the **[**managed care organization**]** ***health carrier*** agree to a longer period;

(b) Not later than **[**~~1 working day~~**]** ***24 hours*** after completing its external review, notify the **[**~~insured,~~**]** ***covered person,*** the physician of the **[**~~insured,~~**]** ***covered person,*** the authorized representative ***,*** **[**~~of the insured,~~**]** if any, and the **[**~~managed care organization~~**]** ***health carrier*** by telephone of its determination; and

(c) Not later than **[**~~5 working days~~**]** ***48 hours*** after completing its external review, submit a written decision of its external review to the **[**~~insured,~~**]** ***covered person,*** the physician of the **[**~~insured,~~**]** ***covered person,*** the authorized representative ***,*** **[**~~of the insured,~~**]** if any, and the **[**~~managed care organization.~~

~~4. At least once each month, the Office for Consumer Health Assistance shall designate at least 2 external review organizations to conduct external reviews in an expedited manner pursuant to this section. As soon as practicable after designating an external review organization pursuant to this section, the Office for Consumer Health Assistance shall notify each managed care organization of the designation.~~

~~5. As soon as practicable after assigning an external review organization to conduct an external review pursuant to this section, the managed care organization shall notify the Office for Consumer Health Assistance of the assignment. Each assignment made by a managed care organization pursuant to this section must be completed on a rotating basis.~~**]** ***health carrier.***

Sec. 118.5. **NRS 695G.280 is hereby amended to read as follows:**

695G.280 The decision of an **[**~~external~~**]** ***independent*** review organization concerning a request for an external review must be based on:

1. Documentary evidence, including any recommendation of the physician of the insured submitted pursuant to NRS 695G.251;

2. Medical ***or scientific*** evidence, including, without limitation:

(a) Professional standards of safety and effectiveness for diagnosis, care and treatment that are generally recognized in the United States;

(b) Any report published in literature that is peer-reviewed;

(c) Evidence-based medicine, including, without limitation, reports and guidelines that are published by professional organizations that are recognized nationally and that include supporting scientific data; and

(d) An opinion of an independent physician who, as determined by the **[**~~external~~**]** ***independent*** review organization, is an expert in the health specialty that is the subject of the external review; and

3. The terms and conditions for benefits set forth in the evidence of coverage issued to the insured by the **[**~~managed care organization.~~**]** ***health carrier.***

Sec. 118.6. **NRS 695G.290 is hereby amended to read as follows:**

695G.290 1. If the determination of an **[**~~external~~**]** ***independent*** review organization concerning an external review of **[**~~a final~~**]** ***an*** adverse determination is in favor of the **[**~~insured,~~**]** ***covered person,*** the determination is final, conclusive and binding upon the **[**~~managed care organization.~~**]** ***health carrier.***

2. An **[**~~external~~**]** ***independent*** review organization or any clinical peer who conducts or participates in an external review of **[**~~a final~~**]** ***an*** adverse determination for the **[**~~external~~**]** ***independent*** review organization is not liable in a civil action for damages relating to a determination made by the **[**~~external~~**]** ***independent*** review organization if the determination is made in good faith and without gross negligence.

3. The cost of conducting an external review of **[**~~a final~~**]** ***an*** adverse determination pursuant to NRS 695G.241 to 695G.310, inclusive, ***and sections 102 to 112, inclusive, of this act*** must be paid by the **[**~~managed care organization~~**]** ***health carrier*** that made the **[**~~final~~**]** adverse determination.

Sec. 118.7. **NRS 695G.300 is hereby amended to read as follows:**

695G.300 In lieu of resolving a complaint of **[**~~an insured~~**]** ***a covered person*** in accordance with a system for resolving complaints established pursuant to the provisions of NRS 695G.200, a **[**~~managed care organization~~**]** ***health carrier*** may:

1. Submit the complaint to an **[**~~external~~**]** ***independent*** review organization pursuant to the provisions of NRS 695G.241 to 695G.310, inclusive **[**~~;~~**]** ***, and sections 102 to 112, inclusive, of this act;*** or

2. If a federal law or regulation provides a procedure for submitting the complaint for resolution that the Commissioner determines is substantially similar to the procedure for submitting the complaint to an **[**external**]** ***independent*** review organization pursuant to NRS 695G.241 to 695G.310, inclusive, ***and sections 102 to 112, inclusive, of this act,*** submit the complaint for resolution in accordance with the federal law or regulation.

Sec. 118.8. **NRS 695G.310 is hereby amended to read as follows:**

695G.310 On or before December 31 of each year, each **[**~~managed care organization~~**]** ***health carrier*** shall file a written report with the Office for Consumer Health Assistance setting forth the total number of:

1. Requests for ***an*** external review **[**~~that were received by the managed care organization~~**]** ***of an adverse decision made by the health carrier which***

were granted by the Office for Consumer Health Assistance during the immediately preceding year; and

2. **[**~~Final adverse~~**]** ***Adverse*** determinations of the **[**~~managed care organization~~**]** ***health carrier*** that were:

(a) Upheld during the immediately preceding year.

(b) Reversed during the immediately preceding year.

Sec. 119. NRS 695H.090 is hereby amended to read as follows:

695H.090 1. An application for registration to engage in business as a medical discount plan must be submitted on a form prescribed by the Commissioner. The form must be signed by an officer or an authorized representative of the applicant. Except as otherwise provided in this section, the application must be accompanied by:

(a) A registration fee of $500 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

(b) A copy of the organizational documents of the applicant, if any.

(c) A list of names, addresses, positions of employment and biographical information of each person who is responsible for conducting the business activities of the medical discount plan of the applicant, including, but not limited to, all members of the board of directors, board of trustees, officers and managers. The list must set forth the extent and nature of any contracts or other agreements between any person who is responsible for conducting the business activities of the applicant and the medical discount plan, including disclosure of any possible conflicts of interest.

(d) A complete biographical statement, on a form prescribed by the Commissioner, describing the facilities, employees and services that will be offered by the applicant.

(e) A copy of all forms used for contracts between the applicant and networks of providers of health care regarding the provision of health care or medical services to members.

(f) A copy of the most recent financial statements of the applicant, audited by an independent certified public accountant.

(g) A description of the method of marketing proposed by the applicant.

(h) A description of the procedures for making a complaint to be established and maintained by the applicant.

(i) Any other information required by the Commissioner.

2. Each person who registers a medical discount plan must renew the registration **[**~~annually~~**]** ***on or*** before **[**~~the registration expires.~~**]** ***March 1 of each year.*** Except as otherwise provided in this section, an application to renew the registration must include:

(a) An annual renewal fee of $500 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110; and

(b) Any information set forth in subsection 1 that the Commissioner requires to be included in the application.

3. An administrator or insurer that registers a medical discount plan is not required to pay the fees for registering or renewing the registration of the medical discount plan pursuant to this section.

4. The Commissioner shall, by regulation, designate the provisions of subsection 1 that shall be deemed satisfied by an administrator, insurer or affiliate of an insurer that has complied with substantially similar requirements pursuant to other provisions of this title.

Sec. 120. NRS 695H.180 is hereby amended to read as follows:

695H.180 A person who violates any provision of this chapter or an order or regulation of the Commissioner issued or adopted pursuant thereto may be assessed an administrative penalty by the Commissioner of not more than $2,000 for each act or violation **.** ~~[, not to exceed an aggregate amount of $10,000 for violations of a similar nature. For the purposes of this section, violations shall be deemed to be of a similar nature if the violations consist of the same or similar conduct, regardless of the number of times the conduct occurred.]~~

Sec. 121. NRS 697.173 is hereby amended to read as follows:

697.173 1. Except as otherwise provided in subsection ~~[2,]~~ ***4,*** a person is entitled to receive, renew or hold a license as a bail enforcement agent if the person:

(a) Is a natural person not less than 21 years of age.

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(c) Has a high school diploma or a general equivalency diploma or has an equivalent education as determined by the Commissioner.

(d) Has ~~[submitted to the Commissioner a report of an investigation of the criminal history of the person from the Central Repository for Nevada Records of Criminal History which indicates that the person possesses the qualifications for licensure as a bail enforcement agent.]~~ ***complied with the requirements of subsection 4 of NRS 697.180.***

(e) Has submitted to the Commissioner the results of an examination conducted by a psychiatrist or psychologist licensed to practice in this state which indicate that the person does not suffer from a psychological condition that would adversely affect the ability of the person to carry out his or her duties as a bail enforcement agent.

(f) Has passed any written examination required by this chapter.

(g) Submits to the Commissioner the results of a test to detect the presence of a controlled substance in the system of the person that was administered no earlier than 30 days before the date of the application for the license which do not indicate the presence of any controlled substance for which the person does not possess a current and lawful prescription issued in the name of the person.

(h) Successfully completes the training required by NRS 697.177.

2. A person is not entitled to receive, renew or hold a license of a bail enforcement agent if the person:

(a) Has been convicted of a felony in this state or of any offense committed in another state which would be a felony if committed in this state; or

(b) Has been convicted of an offense involving moral turpitude or the unlawful use, sale or possession of a controlled substance.

Sec. 122. NRS 697.180 is hereby amended to read as follows:

697.180 1. A written application for a license as a bail agent, general agent, bail enforcement agent or bail solicitor must be filed with the Commissioner by the applicant, accompanied by the applicable fees. The application form must:

(a) Include the social security number of the applicant; ***and***

(b) ~~[Be accompanied by a complete set of the applicant's fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(c)]~~ Require full answers to questions reasonably necessary to determine the applicant's:

(1) Identity and residence.

(2) Business record or occupations for not less than the 2 years immediately preceding the date of the application, with the name and address of each employer, if any.

(3) Prior criminal history, if any.

2. The Commissioner may require the submission of such other information as may be required to determine the applicant's qualifications for the license for which the applicant applied.

3. The applicant must verify his or her application. An applicant for a license under this chapter shall not knowingly misrepresent or withhold any fact or information called for in the application form or in connection therewith.

4. Each applicant must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement

agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

5. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

Sec. 123. NRS 223.580 is hereby amended to read as follows:

223.580 On or before February 1 of each year, the Director shall submit a written report to the Governor, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must include, without limitation:

1. A statement setting forth the number and geographic origin of the written and telephonic inquiries received by the Office for Consumer Health Assistance and the issues to which those inquiries were related;

2. A statement setting forth the type of assistance provided to each consumer and injured employee who sought assistance from the Director, including, without limitation, the number of referrals made to the Attorney General pursuant to subsection 7 of NRS 223.560;

3. A statement setting forth the disposition of each inquiry and complaint received by the Director; and

4. A statement setting forth the number of external reviews conducted by ~~[~~external~~]~~ ~~*[internal]*~~ ***independent*** review organizations pursuant to NRS 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive, ***of this act,*** and the disposition of ~~[~~each of~~]~~ those reviews as reported pursuant to NRS 695G.310 ~~[.]~~ ***and section 110 of this act.***

Sec. 124. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.1645, 695G.170, 695G.171, 695G.173, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, ***inclusive, and sections 102 to 112,*** inclusive, ***of this act*** and 695G.405, in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 125. NRS 422.273 is hereby amended to read as follows:

422.273 1. For any Medicaid managed care program established in the State of Nevada, the Department shall contract only with a health maintenance organization that has:

(a) Negotiated in good faith with a federally-qualified health center to provide health care services for the health maintenance organization;

(b) Negotiated in good faith with the University Medical Center of Southern Nevada to provide inpatient and ambulatory services to recipients of Medicaid; and

(c) Negotiated in good faith with the University of Nevada School of Medicine to provide health care services to recipients of Medicaid.

➥ Nothing in this section shall be construed as exempting a federally-qualified health center, the University Medical Center of Southern Nevada or the University of Nevada School of Medicine from the requirements for contracting with the health maintenance organization.

2. During the development and implementation of any Medicaid managed care program, the Department shall cooperate with the University of Nevada School of Medicine by assisting in the provision of an adequate and diverse group of patients upon which the school may base its educational programs.

3. The University of Nevada School of Medicine may establish a nonprofit organization to assist in any research necessary for the development of a Medicaid managed care program, receive and accept gifts, grants and donations to support such a program and assist in establishing educational services about the program for recipients of Medicaid.

4. For the purpose of contracting with a Medicaid managed care program pursuant to this section, a health maintenance organization is exempt from the provisions of NRS 695C.123.

5. The provisions of this section apply to any managed care organization, including a health maintenance organization, that provides health care services to recipients of Medicaid under the State Plan for Medicaid or the Children's Health Insurance Program pursuant to a contract with the Division. Such a managed care organization or health maintenance organization is not required to establish a system for conducting external reviews of ~~[~~final~~]~~ adverse determinations in accordance with chapter 695B, 695C or 695G of NRS. This subsection does not exempt such a managed care organization or health maintenance organization for services provided pursuant to any other contract.

6. As used in this section, unless the context otherwise requires:

(a) "Federally-qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).

(b) "Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.

(c) "Managed care organization" has the meaning ascribed to it in NRS 695G.050.

Sec. 126. NRS 616A.235 is hereby amended to read as follows:

616A.235 ~~["External]~~ ***"Independent*** review organization" means an organization which has been issued a certificate pursuant to NRS 616A.469 that authorizes the organization to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS.

Sec. 127. NRS 616A.469 is hereby amended to read as follows:

616A.469 1. The Commissioner may issue certificates authorizing qualified ~~[external]~~ ***independent*** review organizations to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS. If the Commissioner issues such certificates and the Commissioner determines that an ~~[external]~~ ***independent*** review organization is qualified to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS, the Commissioner shall issue a certificate to the ~~[external]~~ ***independent*** review organization that authorizes the organization to conduct such external reviews in accordance with the provisions of NRS 616C.363 and the regulations adopted by the Commissioner.

2. The Commissioner may adopt regulations setting forth the procedures that an ~~[external]~~ ***independent*** review organization must follow to be issued a certificate to conduct external reviews. Any regulations adopted pursuant to this section must include, without limitation, provisions setting forth:

(a) The manner in which an ~~[external]~~ ***independent*** review organization may apply for a certificate and the requirements for the issuance and renewal of the certificate pursuant to this section;

(b) The grounds for which the Commissioner may refuse to issue, suspend, revoke or refuse to renew a certificate issued pursuant to this section;

(c) The manner and circumstances under which an ~~[external]~~ ***independent*** review organization is required to conduct its business; and

(d) Any applicable fees for issuing or renewing a certificate of an ~~[external]~~ ***independent*** review organization pursuant to this section.

3. A certificate issued pursuant to this section expires 1 year after it is issued and may be renewed in accordance with regulations adopted by the Commissioner.

4. Before the Commissioner may issue a certificate to an ~~[external]~~ ***independent*** review organization, the ~~[external]~~ ***independent*** review organization must:

(a) Demonstrate to the satisfaction of the Commissioner that it is able to carry out, in a timely manner, the duties of an ~~[external]~~ ***independent*** review organization as set forth in NRS 616C.363 and the regulations adopted by the Commissioner. The demonstration must include, without limitation, proof that the ~~[external]~~ ***independent*** review organization employs, contracts with or otherwise retains only persons who are qualified because of their education, training, professional licensing and experience to perform the duties assigned to those persons; and

(b) Provide assurances satisfactory to the Commissioner that the ~~[external]~~ ***independent*** review organization will:

(1) Conduct external reviews in accordance with the provisions of NRS 616C.363 and the regulations adopted by the Commissioner;

(2) Render its decisions in a clear, consistent, thorough and timely manner; and

(3) Avoid conflicts of interest.

5. For the purposes of this section, an ~~[external]~~ ***independent*** review organization has a conflict of interest if the ~~[external]~~ ***independent*** review organization or any employee, agent or contractor of the ~~[external]~~ ***independent*** review organization who conducts an external review has a professional, familial or financial interest of a material nature with respect to any person who has a substantial interest in the outcome of the external review, including, without limitation:

(a) The claimant;

(b) The employer; or

(c) The insurer or any officer, director or management employee of the insurer.

6. The Commissioner shall not issue a certificate to an ~~[external]~~ ***independent*** review organization that is affiliated with:

(a) An organization for managed care which provides comprehensive medical and health care services to employees for injuries or diseases pursuant to chapters 616A to 617, inclusive, of NRS;

(b) An insurer;

(c) A third-party administrator; or

(d) A national, state or local trade association.

7. An ~~[external]~~ ***independent*** review organization which is certified or accredited by an accrediting body that is nationally recognized shall be deemed to have satisfied all the conditions and qualifications required for the ~~[external]~~ ***independent*** review organization to be issued a certificate pursuant to this section.

Sec. 128. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. ~~[For the purposes of chapters 612 and 616A to 617, inclusive, of NRS, an]~~ ***An*** employee leasing company which complies with the provisions of NRS 616B.670 to 616B.697, inclusive, shall be deemed to be the employer of the employees it leases to a client company. ***The provisions of this subsection apply only for the purposes of chapters 612 and 616A to 617, inclusive, of NRS.***

2. ~~[If an employee leasing company complies with the provisions of subsection 3, the]~~ ***An*** employee leasing company shall be deemed to be ~~[the]~~ ***an*** employer of its leased employees for the purposes of ***offering,*** sponsoring and maintaining any benefit plans **.** ~~[, including, without limitation, for the purposes of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.]~~ ***The provisions of this subsection do not affect the employer-employee relationship that exists between a leased employee and a client company.***

3. An employee leasing company shall not offer ***, sponsor or maintain for*** its ***leased*** employees any self-funded ~~[~~industrial~~]~~ insurance program. An employee leasing company shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS ~~[.]~~ ***or title 57 of NRS.***

4. If an employee leasing company fails to:

(a) Pay any contributions, premiums, forfeits or interest due; or

(b) Submit any reports or other information required,

➥ pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 129. NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him or her on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee's condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:

(a) Order an independent medical examination and refer the employee to a physician or chiropractor of his or her choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an ~~[~~external~~]~~ ***independent*** review organization, submit the matter to an ~~[~~external~~]~~ ***independent*** review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. The appeals officer may consider the opinion of an examining physician or chiropractor, in addition to the opinion of an authorized treating physician or chiropractor, in determining the compensation payable to the injured employee.

5. If an injured employee has requested payment for the cost of obtaining a second determination of his or her percentage of disability pursuant to

NRS 616C.100, the appeals officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

6. The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

7. Any party to the appeal or contested case or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

8. Except as otherwise provided in subsection 9, the appeals officer shall render a decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

9. The appeals officer shall render a decision on a contested claim submitted pursuant to subsection 2 of NRS 616C.345 within 15 days after:

(a) The date of the hearing; or

(b) If the appeals officer orders an independent medical examination, the date the appeals officer receives the report of the examination,

➥ unless both parties to the contested claim agree to a later date.

10. The appeals officer may affirm, modify or reverse any decision made by a hearing officer and issue any necessary and proper order to give effect to his or her decision.

Sec. 130. NRS 616C.363 is hereby amended to read as follows:

616C.363 1. Not later than 5 business days after the date that an ~~[external]~~ ***independent*** review organization receives a request for an external review, the ~~[external]~~ ***independent*** review organization shall:

(a) Review the documents and materials submitted for the external review; and

(b) Notify the injured employee, his or her employer and the insurer whether the ~~[external]~~ ***independent*** review organization needs any additional information to conduct the external review.

2. The ~~[external]~~ ***independent*** review organization shall render a decision on the matter not later than 15 business days after the date that it receives all information that is necessary to conduct the external review.

3. In conducting the external review, the ~~[external]~~ ***independent*** review organization shall consider, without limitation:

(a) The medical records of the insured;

(b) Any recommendations of the physician of the insured; and

(c) Any other information approved by the Commissioner for consideration by an **[**~~external~~**]** ***independent*** review organization.

4. In its decision, the **[**~~external~~**]** ***independent*** review organization shall specify the reasons for its decision. The **[**~~external~~**]** ***independent*** review organization shall submit a copy of its decision to:

(a) The injured employee;

(b) The employer;

(c) The insurer; and

(d) The appeals officer, if any.

5. The insurer shall pay the costs of the services provided by the **[**~~external~~**]** ***independent*** review organization.

6. The Commissioner may adopt regulations to govern the process of external review and to carry out the provisions of this section. Any regulations adopted pursuant to this section must provide that:

(a) All parties must agree to the submission of a matter to an **[**~~external~~**]** ***independent*** review organization before a request for external review may be submitted;

(b) A party may not be ordered to submit a matter to an **[**~~external~~**]** ***independent*** review organization; and

(c) The findings and decisions of an **[**~~external~~**]** ***independent*** review organization are not binding.

Sec. 131. NRS 683A.371, 683A.373, 684A.155, 686A.225, 689A.360, 689A.625 **[**~~,~~**]** **and** 689C.105 **[**~~, 695G.016, 695G. 070 , 695G.080, 695G.241, 695G.251, 695G.261, 695G.271, 695G.280, 695G.290, 695G.300 and 695G.310~~**]** are hereby repealed.

Sec. 132. 1. This **section and sections 1 to 56, inclusive, and 58 to 131, inclusive, of this** act **[**~~becomes~~**]** **become** effective:

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

(b) On October 1, 2011, for all other purposes.

2. **Section 57 of this act becomes effective on January 1, 2013.**

3. Sections 23, 24, 25, 45, 47, 59, 60 and 122 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS

683A.371 Certification; conflicts of interest; annual list.

683A.373 Submission of annual list to Office for Consumer Health Assistance.

684A.155 Limited license: Commissioner authorized to issue to adjuster licensed in adjoining state; terms; powers.

686A.225 Certain insurers to retain adjuster who resides in this State.

689A.360 Filing of rates.

689A.625 Supplemental coverage not health benefit plan if individual carrier files annual certification with Commissioner.

689C.105 "Supplemental coverage" defined.

[~~695G.016 "Clinical peer" defined.~~

~~695G.070 "Provider of health care" defined.~~

~~695G.080 "Utilization review" defined.~~

~~695G.241 Adverse determination deemed final for purpose of submitting to external review organization.~~

~~695G.251 Request for review; assignment of external review organization; provision of documents relating to adverse determination to external review organization.~~

~~695G.261 Review of documents by external review organization; decision of external review organization.~~

~~695G.271 Expedited approval or denial of request.~~

~~695G.280 Basis for decision of external review organization.~~

~~695G.290 Decision in favor of insured binding on managed care organization; limitation of liability; cost for external review organization.~~

~~695G.300 Submission of complaint of insured to external review organization.~~

~~695G.310 Annual report; requirements.~~**]**

Assemblywoman Benitez-Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Joint Resolution No. 1.

Resolution read second time.

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

Amendment No. 362.

SUMMARY—Proposes to amend certain provisions of the Nevada Constitution related to the assessment and collection of property taxes to **[**~~allow~~**]** **authorize** the **[**~~recalculation~~**]** **Legislature to provide by law for the calculation** of the taxable value of **[**~~depreciated~~**]** improvements to real property upon the transfer, sale or conveyance of the property. (BDR C-402)

ASSEMBLY JOINT RESOLUTION—Proposing to amend certain provisions of the Nevada Constitution related to the assessment and

collection of property taxes to authorize the Legislature to provide by law for the ~~[recalculation]~~ **calculation** of the taxable value of ~~[depreciated]~~ improvements to real property upon the transfer, sale or conveyance of the property.

Legislative Counsel's Digest:

Existing law requires that depreciation of an improvement to real property be calculated at 1.5 percent of the replacement cost of the improvement for each year of adjusted actual age of the improvement, up to a maximum of 50 years, when determining the value of the property for the purposes of assessing and collecting property taxes. (NRS 361.227) This proposed amendment to the Nevada Constitution authorizes the Legislature to enact a statute which ~~[requires each County Assessor to recalculate]~~ **provides for the calculation of** the taxable value of ~~[depreciated]~~ improvements ~~[by removing any accumulated depreciation]~~ **to real property** upon such transfers, sales or other conveyances of the property as the Legislature deems appropriate.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 1 of Article 10 of the Nevada Constitution be amended to read as follows:

Section 1. 1. The Legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal and possessory, except mines and mining claims, which shall be assessed and taxed only as provided in Section 5 of this Article.

2. Shares of stock, bonds, mortgages, notes, bank deposits, book accounts and credits, and securities and choses in action of like character are deemed to represent interest in property already assessed and taxed, either in Nevada or elsewhere, and shall be exempt.

3. The Legislature may constitute agricultural and open-space real property having a greater value for another use than that for which it is being used, as a separate class for taxation purposes and may provide a separate uniform plan for appraisal and valuation of such property for assessment purposes. If such plan is provided, the Legislature shall also provide for retroactive assessment for a period of not less than 7 years when agricultural and open-space real property is converted to a higher use conforming to the use for which other nearby property is used.

4. Personal property which is moving in interstate commerce through or over the territory of the State of Nevada, or which was consigned to a warehouse, public or private, within the State of Nevada from outside the State of Nevada for storage in transit to a final destination outside the State of Nevada, whether specified when transportation begins or afterward, shall be deemed to have acquired no situs in Nevada for purposes of taxation and shall be exempt from taxation. Such property shall not be deprived of such exemption because while in the warehouse the property is assembled, bound,

joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged.

5. The Legislature may exempt motor vehicles from the provisions of the tax required by this Section, and in lieu thereof, if such exemption is granted, shall provide for a uniform and equal rate of assessment and taxation of motor vehicles, which rate shall not exceed five cents on one dollar of assessed valuation.

6. The Legislature shall provide by law for a progressive reduction in the tax upon business inventories by 20 percent in each year following the adoption of this provision, and after the expiration of the 4th year such inventories are exempt from taxation. The Legislature may exempt any other personal property, including livestock.

7. No inheritance tax shall ever be levied.

8. The Legislature may exempt by law property used for municipal, educational, literary, scientific or other charitable purposes, or to encourage the conservation of energy or the substitution of other sources for fossil sources of energy.

9. No income tax shall be levied upon the wages or personal income of natural persons. Notwithstanding the foregoing provision, and except as otherwise provided in subsection 1 of this Section, taxes may be levied upon the income or revenue of any business in whatever form it may be conducted for profit in the State.

10. The Legislature may provide by law for an abatement of the tax upon or an exemption of part of the assessed value of a single-family residence occupied by the owner to the extent necessary to avoid severe economic hardship to the owner of the residence.

11. The Legislature may provide by law for the ~~[recalculation of any depreciation allowed by law in the]~~ determination of the value of improvements to real property for the purposes of taxation ~~[, such that the value of a depreciated improvement is reset to the current replacement cost of the improvement]~~ upon ~~[such a]~~ the transfer, sale or other conveyance of the property as the Legislature determines to be appropriate.

Assemblywoman Flores moved the adoption of the amendment.

Amendment adopted.

Resolution ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 406.

Bill read second time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 514.

SUMMARY— ~~[Creates the Evaluation and Sunset Advisory Commission.]~~ **Revises provisions relating to the conducting of executive branch audits and investigations.** (BDR 18-584)

AN ACT relating to ~~[commissions; creating the Evaluation and Sunset Advisory Commission; providing for its membership; requiring the~~

~~Commission to evaluate the necessity and efficacy of all agencies, boards and commissions and statutory tax exemptions, abatements and earmarks in this State;~~ **state agencies; authorizing the Governor to require the Chief of the Division of Internal Audits of the Department of Administration to conduct certain audits and investigations of executive branch agencies without the approval of the Executive Branch Audit Committee; authorizing the Chief to conduct investigations; deleting provisions which prohibit the Division from conducting investigations; requiring executive branch agencies to cooperate in an audit or investigation; exempting certain audits and investigations from being included in certain reports to the Committee; requiring certain documents relating to investigations of executive branch agencies to be kept confidential under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Executive Branch Audit Committee, requires the Chief of the Division of Internal Audits of the Department of Administration to submit annual plans to audit executive branch agencies to the Committee, and requires the Committee to approve those plans. (NRS 353A.038, 353A.045) Further, existing law prohibits the Division from conducting investigations. (NRS 353A.055) Section ~~[3]~~ **1** of this bill ~~[creates the Evaluation and Sunset Advisory Commission and sets forth the details regarding the members of the Commission, who are appointed by the Governor and the Majority and Minority Leaders of each House of the Legislature. Section 5 of this bill sets forth the duties of the Commission which include, without limitation, reviewing and evaluating all agencies, boards and commissions and statutory tax exemptions, abatements and earmarks in this State for necessity and efficacy and for duplication by other agencies, boards and commissions of the Federal Government, this State or local governments in this State. Section 4 of this bill requires the Commission to meet at least bimonthly and to annually report its findings and recommendations to the Governor and the Legislature. Section 6 of this bill authorizes the Commission to apply for and receive gifts, grants, contributions or other money to carry out its duties.]~~ **authorizes the Governor to require the Chief to conduct an audit or an investigation of an executive branch agency that is not in the plan the Chief submitted and without the approval of the Committee. Section 2 of this bill authorizes the Chief to conduct investigations, as well as audits, and requires the Chief to conduct the audits or investigations required by the Governor as well as those approved by the Committee. Section 3 of this bill eliminates the prohibition against the Division conducting investigations.**

Existing law requires the Chief of the Division of Internal Audits of the Department of Administration to submit an annual report to the Executive Branch Audit Committee which includes all final reports of

audits conducted in the preceding year. (NRS 353A.065) Section 4 of this bill prohibits the inclusion in that report of any reference to audits or investigations required by the Governor. Section 6 of this bill requires that the final reports of an audit or investigation required by the Governor be given to the Governor and not the Committee.

Section 5 of this bill requires all executive branch agencies to cooperate with the Chief or the authorized representative of the Chief in an audit or investigation. Section 8 of this bill requires that the working documents from an investigation are to be kept confidential under certain circumstances.

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

Delete existing sections 1 through 8 of this bill and replace with the following new sections 1 through 9:

Section 1. **NRS 353A.038 is hereby amended to read as follows:**

353A.038 1. The Executive Branch Audit Committee is hereby created.

2. The Committee must consist of one member who is a representative of the general public appointed by the Governor, who has at least 5 years of progressively responsible experience in the field of auditing and who does not engage in business with any agency, and the following ex officio members:

(a) The Governor, who shall serve as Chair of the Committee;

(b) The Lieutenant Governor;

(c) The Secretary of State;

(d) The State Treasurer;

(e) The State Controller; and

(f) The Attorney General.

3. The member of the Committee who is a representative of the general public is entitled to receive a salary of $80 per day while engaged in the business of the Committee.

4. While engaged in the business of the Committee, each member of the Committee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

5. The Committee shall:

(a) Adopt policies and procedures for the operation of the Division;

(b) Approve, with or without revision, each annual plan for auditing agencies presented by the Chief pursuant to NRS 353A.045, and any revisions to such a plan, before the plan is implemented; and

(c) Approve, with or without revision, each annual report submitted by the Chief pursuant to NRS 353A.065.

6. The Governor, as the Chair of the Committee and without the approval of the Committee, may direct the Chief to perform additional audits or investigations of executive branch agencies not included in the plan presented pursuant to NRS 353A.045.

Sec. 2. **NRS 353A.045 is hereby amended to read as follows:**

353A.045 The Chief shall:

1. Report to the Director.

2. Develop long-term and annual work plans to be based on the results of periodic documented risk assessments. The annual work plan must list the agencies to which the Division will provide training and assistance and be submitted to the Director for approval. Such agencies must not include:

(a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS.

(b) The Nevada System of Higher Education.

(c) The Public Employees' Retirement System.

(d) The Housing Division of the Department of Business and Industry.

(e) The Colorado River Commission of Nevada.

3. Provide a copy of the approved annual work plan to the Legislative Auditor.

4. In consultation with the Director, prepare a plan for auditing ***or investigating*** executive branch agencies for each fiscal year and present the plan to the Committee for its review and approval. Each plan for auditing ***or investigating*** must:

(a) State the agencies which will be audited ~~[,]~~ ***or investigated,*** the proposed scope and assignment of those audits ***or investigations*** and the related resources which will be used for those audits ~~[,]~~ ***or investigations;*** and

(b) Ensure that the internal accounting, administrative controls and financial management of each agency are reviewed periodically.

5. Perform the audits ***or investigations*** of the programs and activities of the agencies in accordance with the plan approved pursuant to subsection 5 of NRS 353A.038 and prepare audit ***or investigation*** reports of his or her findings.

6. ***Perform additional audits or investigations of executive branch agencies if required by the Governor pursuant to subsection 6 of NRS 353A.038.***

7. Review each agency that is audited ***or investigated*** pursuant to subsection 5 ***or 6*** and advise those agencies concerning internal accounting, administrative controls and financial management.

~~[7.]~~ ***8.*** Submit to each agency that is audited ***or investigated*** pursuant to subsection 5 ***or 6 any*** analyses, appraisals and recommendations concerning:

(a) The adequacy of the internal accounting and administrative controls of the agency; and

(b) The efficiency and effectiveness of the management of the agency.

~~[8.]~~ ***9.*** Report any possible abuses, illegal actions, errors, omissions and conflicts of interest of which the Division becomes aware during the performance of an audit ~~[.~~

~~9.]~~ ***or investigation.***

10. Adopt the standards of the Institute of Internal Auditors for conducting and reporting on internal audits.

~~[10.]~~ ***11.*** Consult with the Legislative Auditor concerning the plan for auditing and the scope of audits to avoid duplication of effort and undue disruption of the functions of agencies that are audited pursuant to subsection 5 ~~[.~~

~~11.]~~ ***or 6.***

12. Appoint a Manager of Internal Controls.

Sec. 3. **NRS 353A.055 is hereby amended to read as follows:**

353A.055 1. The Division shall:

(a) Determine the adequacy of the system of internal accounting, administrative control and financial management of each agency to which the Division provides training and assistance.

(b) Adopt regulations, approved by the Committee, requiring the provision of training to any employee of an agency who is responsible for administering budgetary accounts. The training must address:

(1) The laws and regulations of this state and the Federal Government applicable to the operations of the agency.

(2) Internal accounting, administrative controls and financial management.

(3) Techniques to address the adequacy of controls of the agency.

(c) Develop and administer a procedure to evaluate the effectiveness of any training provided to an agency.

(d) Provide technical assistance to agencies in developing and carrying out their systems of internal accounting, administrative controls and financial management.

(e) Prepare separate reports for each agency which summarize the results of the training and assistance provided to the agency.

2. The Division shall not ~~[:~~

~~(a) Provide]~~ ***provide*** any services to an agency that is under the direct control or administration of a constitutional officer unless the constitutional officer requests such services.

~~[(b) Conduct investigations, but shall refer such matters to the appropriate agency.]~~

Sec. 4. **NRS 353A.065 is hereby amended to read as follows:**

353A.065 1. Within 90 days after the end of each fiscal year, the Chief shall submit an annual report to the Committee for its approval which:

(a) Lists the agencies to which the Division provided training and assistance;

(b) Separately lists any other activities undertaken by the Division that are related to the provision of training and assistance and the status of those activities;

(c) ~~[Contains]~~ ***Except as otherwise provided in subsection 3, contains*** a list of the final reports that have been submitted pursuant to NRS 353A.085;

(d) ~~[Contains]~~ ***Except as otherwise provided in subsection 3, contains*** a separate list of any other activities undertaken by the Division that are related to the final reports submitted pursuant to NRS 353A.085 and the status of those activities; and

(e) Describes the accomplishments of the Division.

2. The Chief shall provide a copy of the annual report to the:

(a) Committee;

(b) Director;

(c) Interim Finance Committee; and

(d) Legislative Auditor.

3. The annual report submitted by the Chief to the Committee pursuant to this section must not include information about any audit or investigation required by the Governor pursuant to subsection 6 of NRS 353A.038.

Sec. 5. **NRS 353A.075 is hereby amended to read as follows:**

353A.075 1. Except as otherwise provided in subsection 2, upon the request of the Chief or the Chief's authorized representative, all officers and employees of each executive branch agency shall ~~[make]~~ ***:***

(a) Make available to the Division all books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, in the possession or control of the agency.

(b) Cooperate with the Chief or the Chief's authorized representative in any audit or investigation conducted by the Chief or the Division.

2. This section does not authorize the Chief or the Chief's authorized representative to have access to any books, accounts, claims, reports, vouchers or other records or information of any business or activity which NRS 665.130 and 668.085 require to be kept confidential.

Sec. 6. **NRS 353A.085 is hereby amended to read as follows:**

353A.085 1. After each audit ***or investigation*** is completed, the Chief or the Chief's designated representative shall submit a copy of the preliminary findings and recommendations of the audit ***or investigation*** to the head of the audited ***or investigated*** agency. Within 10 working days after receipt of the preliminary findings and recommendations, the head of the ***audited or investigated*** agency shall submit to the Chief a written statement of acceptance, explanation or rebuttal concerning the findings. The Chief shall include the statement of the head of the agency in the final report.

2. ~~[The]~~ ***Except as otherwise provided in subsection 4, the*** Chief shall submit a final report to the Committee and the head of the audited ***or investigated*** agency.

3. Except as otherwise provided in NRS 353A.031 to 353A.100, inclusive, the Chief shall not disclose the content of any audit ***or investigation*** before the final report is submitted to the Committee pursuant to subsection 2 except in the case of alleged illegal acts which must be reported immediately upon discovery.

4. If the Chief conducts an audit or investigation required by the Governor pursuant to subsection 6 of NRS 353A.038, the Chief shall submit the final report to the Governor and the head of the audited or investigated agency.

Sec. 7. **NRS 353A.090 is hereby amended to read as follows:**

353A.090 Within 6 months after the date that the final report is submitted pursuant to NRS 353A.085, if corrective action is recommended for an agency, the Chief shall determine whether appropriate corrective actions are being taken and whether those actions are achieving the desired result. The Chief shall inform the Committee and the head of the audited ***or investigated*** agency of the effect of any corrective actions taken.

Sec. 8. **NRS 353A.100 is hereby amended to read as follows:**

353A.100 1. The Chief shall keep or cause to be kept a complete file of copies of all reports of audits, examinations, investigations and all other reports or releases issued by the Chief.

2. All working papers from an audit ***or investigation*** are confidential and may be destroyed by the Chief 5 years after the report is issued, except that the Chief:

(a) Shall release such working papers when subpoenaed by a court of competent jurisdiction or when required to do so pursuant to NRS 239.0115;

(b) Shall make such working papers available to the Legislative Auditor upon his or her request; and

(c) May make such working papers available for inspection by an authorized representative of any other governmental entity for a matter officially before him or her.

Sec. 9. **This act becomes effective on July 1, 2011.**

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 346.

Bill read third time.

Roll call on Assembly Bill No. 346:

YEAS—42.

NAYS—None.

Assembly Bill No. 346 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 352.

Bill read third time.

Roll call on Assembly Bill No. 352:

YEAS—26.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—16.

Assembly Bill No. 352 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 362.

Bill read third time.

Roll call on Assembly Bill No. 362:

YEAS—42.

NAYS—None.

Assembly Bill No. 362 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 368.

Bill read third time.

Roll call on Assembly Bill No. 368:

YEAS—42.

NAYS—None.

Assembly Bill No. 368 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 384.

Bill read third time.

Remarks by Assemblymen Hickey and Carlton.

Roll call on Assembly Bill No. 384:

YEAS—36.

NAYS—Atkinson, Carlton, Carrillo, Goedhart, Horne, Mastroluca—6.

Assembly Bill No. 384 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 389.

Bill read third time.

Roll call on Assembly Bill No. 389:

YEAS—42.

NAYS—None.

Assembly Bill No. 389 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 396.

Bill read third time.

Roll call on Assembly Bill No. 396:

YEAS—42.

NAYS—None.

Assembly Bill No. 396 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 400.
Bill read third time.
Roll call on Assembly Bill No. 400:
YEAS—42.
NAYS—None.
Assembly Bill No. 400 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 408.
Bill read third time.
Roll call on Assembly Bill No. 408:
YEAS—42.
NAYS—None.
Assembly Bill No. 408 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 410.
Bill read third time.
Roll call on Assembly Bill No. 410:
YEAS—42.
NAYS—None.
Assembly Bill No. 410 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 6:43 p.m.

ASSEMBLY IN SESSION

At 6:49 p.m.
Mr. Speaker presiding.
Quorum present.

Assemblyman Conklin moved to withdraw Assembly Bill No. 474 from the Concurrent Committee on Ways and Means.
Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 474 be taken from the General File and placed on the General File for the next legislative day.
Motion carried.

Assembly Bill No. 413.
Bill read third time.
Roll call on Assembly Bill No. 413:
YEAS—42.
NAYS—None.
Assembly Bill No. 413 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 433.
Bill read third time.
Roll call on Assembly Bill No. 433:
YEAS—26.
NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—16.
Assembly Bill No. 433 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 454.
Bill read third time.
Roll call on Assembly Bill No. 454:
YEAS—42.
NAYS—None.
Assembly Bill No. 454 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 472.
Bill read third time.
Roll call on Assembly Bill No. 472:
YEAS—42.
NAYS—None.
Assembly Bill No. 472 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 501.
Bill read third time.
Roll call on Assembly Bill No. 501:
YEAS—28.
NAYS—Ellison, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—14.
Assembly Bill No. 501 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 538.
Bill read third time.
Roll call on Assembly Bill No. 538:
YEAS—33.
NAYS—Carrillo, Diaz, Hogan, Munford, Neal, Ohrenschall, Pierce, Segerblom, Smith—9.
Assembly Bill No. 538 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 544.
Bill read third time.
Roll call on Assembly Bill No. 544:
YEAS—42.
NAYS—None.
Assembly Bill No. 544 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 545.
Bill read third time.
Roll call on Assembly Bill No. 545:
YEAS—31.
NAYS—Carlton, Goicoechea, Grady, Hambrick, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur—11.
Assembly Bill No. 545 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 564.
Bill read third time.
Roll call on Assembly Bill No. 564:
YEAS—42.
NAYS—None.
Assembly Bill No. 564 having received a constitutional majority, Mr. Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 374.
Bill read third time.
The following amendment was proposed by Assemblyman Atkinson:
Amendment No. 499.
AN ACT relating to mobile equipment; requiring the Director of the Department of Transportation to submit a report to the Governor and the Legislature relating to the **elimination by outsourcing or the** purchase or leasing of certain mobile equipment ~~[,]~~ **;** requiring the Department to prepare and present an analysis of the costs and benefits associated with the purchasing or leasing of certain mobile equipment ~~[,]~~ **or contracting for the performance of the work which would have been performed using that**

mobile equipment; prohibiting the Board of Directors of the Department from approving the purchase of certain mobile equipment unless the Department justifies the purchase based on the costs and benefits analysis; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Transportation to submit various reports to the Legislature concerning the activities of the Department. (NRS 408.203) **Section 2** of this bill provides that, on or before February 1 of each odd-numbered year, the Director is required to submit a report to the Governor and the Legislature concerning all mobile equipment **eliminated by outsourcing or** purchased or leased in the previous 2 years. **Section 2** further requires that the report include, without limitation, the costs and benefits analysis prepared pursuant to **section 3** of this bill and the justification for the decision to purchase or lease the mobile equipment **[.] or to enter into a contract for the performance of the work which would have been performed using the mobile equipment.**

Existing law requires the Board of Directors of the Department to authorize the purchase by the Department of any equipment which exceeds $50,000. (NRS 408.389) **Section 3** provides that, before the Board may approve the purchase of any mobile equipment which exceeds $50,000, the Department is required to **: (1)** prepare and present a costs and benefits analysis of purchasing or leasing the mobile equipment **or contracting for the performance of the work which would have been performed using the mobile equipment;** and **(2)** justify purchasing instead of leasing **or contracting** based on that analysis. **Section 3** further prohibits the Board from approving any purchase of mobile equipment which exceeds $50,000 unless the Department is able to justify purchasing **[**~~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. (Deleted by amendment.)

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

408.203 The Director shall:

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

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

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

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

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

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

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

(a) Prepare and present to the Board an analysis of the costs and benefits , including, without limitation, all related personnel costs, that are associated with [purchasing or leasing] :

(1) Purchasing, operating and maintaining the same item of equipment;

(2) Leasing, operating and maintaining the same item of mobile equipment; [and] or

(3) Contracting for the performance of the work which would have been performed using the mobile equipment; and

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

3. The Board shall not [delegate] ***:***

(a) Delegate to the Director its authority to approve purchases of equipment pursuant to subsection 1 [.] ***; or***

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

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

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 86.

Bill read third time.

Roll call on Senate Bill No. 86:
YEAS—41.
NAYS—Ellison.
Senate Bill No. 86 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 13.
Bill read third time.
Roll call on Assembly Bill No. 13:
YEAS—42.
NAYS—None.
Assembly Bill No. 13 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 29.
Bill read third time.
Remarks by Assemblyman Sherwood.
Roll call on Assembly Bill No. 29:
YEAS—42.
NAYS—None.
Assembly Bill No. 29 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 45.
Bill read third time.
Roll call on Assembly Bill No. 45:
YEAS—42.
NAYS—None.
Assembly Bill No. 45 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 59.
Bill read third time.
Remarks by Anderson.
Roll call on Assembly Bill No. 59:
YEAS—32.
NAYS—Ellison, Goedhart, Hambrick, Hammond, Hansen, Hickey, Kirner, Kite, Livermore, McArthur—10.
Assembly Bill No. 59 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 68.
Bill read third time.

Roll call on Assembly Bill No. 68:
YEAS—42.
NAYS—None.
Assembly Bill No. 68 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 107.
Bill read third time.
Roll call on Assembly Bill No. 107:
YEAS—33.
NAYS—Ellison, Hambrick, Hansen, Hardy, Kirner, Kite, Livermore, McArthur, Stewart—9.
Assembly Bill No. 107 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 135.
Bill read third time.
Roll call on Assembly Bill No. 135:
YEAS—26.
NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—16.
Assembly Bill No. 135 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 141.
Bill read third time.
Roll call on Assembly Bill No. 141:
YEAS—37.
NAYS—Atkinson, Brooks, Carlton, Frierson, Horne—5.
Assembly Bill No. 141 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 149.
Bill read third time.
Roll call on Assembly Bill No. 149:
YEAS—26.
NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—16.
Assembly Bill No. 149 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 179.
Bill read third time.

Roll call on Assembly Bill No. 179:
YEAS—28.
NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, McArthur, Munford, Sherwood—14.
Assembly Bill No. 179 having received a constitutional majority, Mr. Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 273.
Bill read third time.
Remarks by Assemblyman Conklin.
Roll call on Assembly Bill No. 273:
YEAS—42.
NAYS—None.
Assembly Bill No. 273 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 276.
Bill read third time.
Roll call on Assembly Bill No. 276:
YEAS—42.
NAYS—None.
Assembly Bill No. 276 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 283.
Bill read third time.
Roll call on Assembly Bill No. 283:
YEAS—42.
NAYS—None.
Assembly Bill No. 283 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 284.
Bill read third time.
Remarks by Assemblyman Conklin.
Roll call on Assembly Bill No. 284:
YEAS—33.
NAYS—Goicoechea, Grady, Hambrick, Hansen, Hardy, Hickey, Kirner, Kite, McArthur—9.
Assembly Bill No. 284 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 308.
Bill read third time.

Roll call on Assembly Bill No. 308:
YEAS—42.
NAYS—None.
Assembly Bill No. 308 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 463.
Bill read third time.
Roll call on Assembly Bill No. 463:
YEAS—42.
NAYS—None.
Assembly Bill No. 463 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 282.
Bill read third time.
The following amendment was proposed by Assemblyman Oceguera:
Amendment No. 528.
AN ACT relating to firearms; revising provisions concerning permits to carry concealed semiautomatic firearms; revising provisions governing the renewal of a permit to carry a concealed firearm; revising provisions concerning the confidentiality of information relating to permits to carry concealed firearms; revising provisions governing the possession of firearms in state parks; and providing other matters properly relating thereto.
Legislative Counsel's Digest:
Under existing law, a person who wishes to carry a concealed firearm must obtain a permit to carry the firearm. (NRS 202.3657) As part of the application process to obtain a permit, an applicant must undergo an investigation by a sheriff to determine if the applicant is eligible for a permit. Such an investigation must include a report from the Federal Bureau of Investigation. (NRS 202.366) **Section 2** of this bill additionally requires an applicant for the renewal of a permit to undergo an investigation by the sheriff. **Section 2** also specifies that an investigation conducted by the sheriff for an initial application or a renewal application must include a report from the National Instant Criminal Background Check System. **Section 4** of this bill revises the fee for the renewal of a permit from $25 to the amount **[**~~necessary~~**]** **of the actual cost** to obtain the reports required as part of the investigation by the sheriff.
Existing law also provides that a qualified applicant for a permit to carry a concealed firearm may obtain a permit for revolvers, for one or more specific semiautomatic firearms, or for revolvers and one or more specific semiautomatic firearms. (NRS 202.3657) If the application for a permit involves semiautomatic firearms, the applicant must state the make, model and caliber of each semiautomatic firearm for which the applicant is seeking

to obtain a permit. (NRS 202.366) Additionally, to receive and renew a permit involving semiautomatic firearms, an applicant or permittee must demonstrate competence with each semiautomatic firearm to which the application pertains. (NRS 202.3657, 202.3677) **Section 1** of this bill provides that: (1) a qualified applicant for a permit to carry a concealed firearm may obtain one permit for all semiautomatic firearms that the applicant seeks to carry instead of being required to obtain a permit for each specific semiautomatic firearm; and (2) an applicant or permittee may demonstrate competence with semiautomatic firearms in general rather than with each specific semiautomatic firearm.

Existing law further provides that information in an application for a permit to carry a concealed firearm and all information relating to the investigation of an applicant for such a permit is confidential. (NRS 202.3662) However, the Nevada Supreme Court recently held in *Reno Newspapers, Inc. v. Haley*, 126 Nev. Adv. Op. 23, 234 P.3d 922 (2010), that the identity of a holder of a permit to carry a concealed firearm and any postpermit records of investigation, suspension or revocation are not confidential and are therefore public records. **Section 3** of this bill provides that the identity and any information acquired during the investigation of a holder of a permit to carry a concealed firearm are confidential, as are any records regarding the suspension, restoration or revocation of such a permit.

Existing law also allows the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to adopt regulations, including, without limitation, prohibitions and restrictions on activities within parks or recreational facilities within the jurisdiction of the Division. (NRS 407.0475) Existing administrative regulations allow a person to carry a concealed firearm in a state park if the person complies with existing laws concerning the carrying of concealed weapons but prohibit a person from discharging a firearm in a state park. (NAC 407.105) Any person who violates a regulation adopted by the Administrator is guilty of a misdemeanor. (NRS 407.0475) While existing law prohibits the discharge of a firearm under various circumstances, it also provides certain defenses for violating such provisions by allowing a person to make sufficient resistance to prevent the occurrence of certain offenses. (NRS 202.280-202.290, 193.230-193.250)

Section 5 of this bill prohibits the Administrator from adopting any regulation concerning the possession of firearms in state parks or recreational facilities which is more restrictive than the laws of this State relating to: (1) the possession of firearms; and (2) engaging in lawful resistance to prevent an offense against a person or property. **Section 5** also voids any regulation which conflicts with such laws.

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

Section 1. NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person who is a resident of this State may apply to the sheriff of the county in which he or she resides for a permit on a form prescribed by regulation of the Department. Any person who is not a resident of this State may apply to the sheriff of any county in this State for a permit on a form prescribed by regulation of the Department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. Except as otherwise provided in this section, the sheriff shall issue a permit for revolvers, ~~[one or more specific]~~ ***for*** semiautomatic firearms, or for revolvers and ~~[one or more specific]~~ semiautomatic firearms, as applicable, to any person who is qualified to possess the firearm or firearms to which the application pertains under state and federal law, who submits an application in accordance with the provisions of this section and who:

(a) Is 21 years of age or older;

(b) Is not prohibited from possessing a firearm pursuant to NRS 202.360; and

(c) Demonstrates competence with revolvers, ~~[each specific]~~ semiautomatic ~~[firearm to which the application pertains,]~~ ***firearms,*** or revolvers and ~~[each such]~~ semiautomatic ~~[firearm,]~~ ***firearms,*** as applicable, by presenting a certificate or other documentation to the sheriff which shows that the applicant:

(1) Successfully completed a course in firearm safety approved by a sheriff in this State; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

➥ Such a course must include instruction in the use of revolvers, ~~[each]~~ semiautomatic ~~[firearm to which the application pertains,]~~ ***firearms,*** or revolvers and ~~[each such]~~ semiautomatic ~~[firearm]~~ ***firearms*** and in the laws of this State relating to the use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless the sheriff determines that the course meets any standards that are established by the Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist, its legal successor.

3. The sheriff shall deny an application or revoke a permit if the sheriff determines that the applicant or permittee:

(a) Has an outstanding warrant for his or her arrest.

(b) Has been judicially declared incompetent or insane.

(c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.

(d) Has habitually used intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. For the purposes of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, the person has been:

(1) Convicted of violating the provisions of NRS 484C.110; or

(2) Committed for treatment pursuant to NRS 458.290 to 458.350, inclusive.

(e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.

(f) Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.

(g) Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

(h) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

(i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:

(1) Withholding of the entry of judgment for a conviction of a felony; or

(2) Suspension of sentence for the conviction of a felony.

(j) Has made a false statement on any application for a permit or for the renewal of a permit.

4. The sheriff may deny an application or revoke a permit if the sheriff receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 3 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

5. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this section, the sheriff shall suspend the person's permit or the processing of the person's application until the final disposition of the charges against the person. If a permittee is acquitted of the charges, or if the charges are dropped, the sheriff shall restore his or her permit without imposing a fee.

6. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by an employee of the sheriff or notarized by a notary public. The application must include:

(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his or her agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his or her agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) If the applicant is not a resident of this State, the driver's license number or identification card number of the applicant issued by another state or jurisdiction;

(f) ~~[The make, model and caliber of each semiautomatic firearm to which the application pertains, if any;~~

~~(g)]~~ ***Whether the application pertains to semiautomatic firearms;***

(g) Whether the application pertains to revolvers;

(h) A nonrefundable fee in the amount ~~[necessary]~~ ***of the actual cost*** to obtain the ~~[report]~~ ***reports*** required pursuant to subsection 1 of NRS 202.366; and

(i) A nonrefundable fee set by the sheriff not to exceed $60.

Sec. 2. NRS 202.366 is hereby amended to read as follows:

202.366 1. Upon receipt by a sheriff of an application for a permit, ***including an application for the renewal of a permit pursuant to NRS 202.3677,*** the sheriff shall conduct an investigation of the applicant to determine if the applicant is eligible for a permit. In conducting the investigation, the sheriff shall forward a complete set of the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report concerning the criminal history of the applicant. ***The investigation also must include a report from the National Instant Criminal Background Check System.*** The sheriff shall issue a permit to the applicant unless the applicant is not qualified to possess a handgun pursuant to state or federal law or is not otherwise qualified to obtain a permit pursuant to NRS 202.3653 to 202.369, inclusive, or the regulations adopted pursuant thereto.

2. To assist the sheriff in conducting the investigation, any local law enforcement agency, including the sheriff of any county, may voluntarily submit to the sheriff a report or other information concerning the criminal history of an applicant.

3. Within 120 days after a complete application for a permit is submitted, the sheriff to whom the application is submitted shall grant or deny the application. If the application is denied, the sheriff shall send the applicant written notification setting forth the reasons for the denial. If the application is granted, the sheriff shall provide the applicant with a permit containing a colored photograph of the applicant and containing such other information as may be prescribed by the Department. The permit must be in substantially the following form:

NEVADA CONCEALED FIREARM PERMIT

County ..... Permit Number .....
Expires ..... Date of Birth .....
Height ..... Weight .....
Name ..... Address .....
City ..... Zip .....

Photograph

Signature .....
Issued by .....
Date of Issue .....

~~[Make, model and caliber of each authorized semiautomatic firearm, if any]~~

Semiautomatic firearms authorized ..... ***Yes*** ..... ***No***
Revolvers authorized ..... Yes ..... No

4. Unless suspended or revoked by the sheriff who issued the permit, a permit expires 5 years after the date on which it is issued.

5. As used in this section, "National Instant Criminal Background Check System" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.

Sec. 3. NRS 202.3662 is hereby amended to read as follows:

202.3662 1. Except as otherwise provided in this section and NRS 202.3665 and 239.0115:

(a) An application for a permit, and all information contained within that application; ~~[and]~~

(b) All information provided to a sheriff or obtained by a sheriff in the course of the investigation of an applicant ~~[,]~~ ***or permittee;***

(c) The identity of the permittee; and

(d) Any records regarding the suspension, restoration or revocation of a permit,

➥ are confidential.

2. Any records regarding an applicant or permittee may be released to a law enforcement agency for the purpose of conducting an investigation or prosecution.

3. Statistical abstracts of data compiled by a sheriff regarding permits applied for or issued pursuant to NRS 202.3653 to 202.369, inclusive, including, but not limited to, the number of applications received and permits issued, may be released to any person.

Sec. 4. NRS 202.3677 is hereby amended to read as follows:

202.3677 1. If a permittee wishes to renew his or her permit, the permittee must ~~[complete]~~ ***:***

(a) Complete and submit to the sheriff who issued the permit an application for renewal of the permit ~~[.]~~ ***; and***

(b) Undergo an investigation by the sheriff pursuant to NRS 202.366 to determine if the permittee is eligible for a permit.

2. An application for the renewal of a permit must:

(a) Be completed and signed under oath by the applicant;

(b) Contain a statement that the applicant is eligible to receive a permit pursuant to NRS 202.3657; and

(c) Be accompanied by a nonrefundable fee ~~[of $25.]~~ ***in the amount*** ~~*[necessary]*~~ ***of the actual cost to obtain the reports required pursuant to subsection 1 of NRS 202.366.***

➥ If a permittee fails to renew his or her permit on or before the date of expiration of the permit, the application for renewal must include an additional nonrefundable late fee of $15.

3. No permit may be renewed pursuant to this section unless the permittee has demonstrated continued competence with revolvers, with ~~[each]~~ semiautomatic ~~[firearm to which the application pertains,]~~ ***firearms,*** or with revolvers and ~~[each such]~~ semiautomatic ~~[firearm,]~~ ***firearms,*** as applicable, by successfully completing a course prescribed by the sheriff renewing the permit.

Sec. 5. NRS 407.0475 is hereby amended to read as follows:

407.0475 1. The Administrator shall adopt such regulations as he or she finds necessary for carrying out the provisions of this chapter and other provisions of law governing the operation of the Division. ~~[The]~~ ***Except as otherwise provided in subsection 2, the*** regulations may include prohibitions and restrictions relating to activities within any of the park or recreational facilities within the jurisdiction of the Division.

2. Any regulations relating to the conduct of persons within the park or recreational facilities must:

(a) Be directed toward one or both of the following:

(1) Prevention of damage to or misuse of the facility.

(2) Promotion of the inspiration, use and enjoyment of the people of this State through the preservation and use of the facility.

(b) Apply separately to each park, monument or recreational area and be designed to fit the conditions existing at that park, monument or recreational area.

(c) Not establish restrictions on the possession of firearms within the park or recreational facility which are more restrictive than the laws of this State relating to:

(1) The possession of firearms; or

(2) Engaging in lawful resistance to prevent an offense against a person or property.

➥ ***Any regulation which violates the provisions of this paragraph is void.***

3. Any person whose conduct violates any regulation adopted pursuant to subsection 1, and who refuses to comply with the regulation upon request by any ranger or employee of the Division who has the powers of a peace officer pursuant to NRS 289.260, is guilty of a misdemeanor.

Assemblyman Bobzien moved the adoption of the amendment.

Remarks by Assemblyman Bobzien.

Mr. Speaker requested the privilege of the Chair for the purpose of making remarks.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 7:31 p.m.

ASSEMBLY IN SESSION

At 7:35 p.m.
Mr. Speaker presiding.
Quorum present.

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

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 117 be taken from the General File and placed on the General File for the next legislative day.
Motion carried.

Assemblywoman Mastroluca moved that Assembly Bill No. 350 be taken from the Chief Clerk's desk and placed at the top of the General File.
Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 441 be taken from the General File and placed at the top of the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 441.
Bill read third time.
Roll call on Assembly Bill No. 441:
YEAS—27.
NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—15.
Assembly Bill No. 441 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 350.
Bill read third time.
The following amendment was proposed by Assemblywoman Mastroluca:
Amendment No. 516.
AN ACT relating to protection of children; requiring a court that orders a child to be placed with someone other than a parent to retain jurisdiction over the child after the child reaches the age of 18 years in certain circumstances; requiring an agency which provides child welfare services to continue to

provide services and ~~[financial support]~~ **monetary payments** to such a child while the child remains under the jurisdiction of the court; requiring the agency which provides child welfare services and such a child to enter into a written agreement; requiring the agency which provides child welfare services to develop a plan for such a child to assist the child in transitioning to independent living; revising various provisions relating to a child placed with someone other than a parent to clarify the application of those provisions to persons who remain in foster care beyond the age of 18 years; revising provisions governing the placement of children who are taken into protective custody or placed with someone other than a parent; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law gives a juvenile court exclusive jurisdiction over proceedings concerning a child in need of protection in this State, except if the child is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act. (NRS 432B.410) The juvenile court may take actions to protect a child from abuse and neglect, including ordering a child to be placed into the custody of a person or entity other than a parent. (NRS 432B.550) **Section 18** of this bill requires the juvenile court that has jurisdiction over a child who was placed with a person other than a parent to continue to retain jurisdiction over the child when the child reaches the age of 18 years if the child so requests. **Section 18** provides that jurisdiction over the child will terminate when the child reaches 21 years of age unless certain conditions occur first.

Section 16 of this bill requires the juvenile court to refer a child to an attorney when the child is 17 years of age if the court determines that the child is not likely to be returned to the custody of a parent before reaching 18 years of age. **Section 16** requires the juvenile court to request that the attorney assist the child in deciding whether to remain under the jurisdiction of the court. **Section 17** of this bill requires the agency which provides child welfare services to meet with the child at least 120 days before the child reaches 18 years of age to determine whether the child intends to remain under the jurisdiction of the court. However, the child is allowed to change his or her mind any time before reaching 18 years of age. In addition, **section 18** requires the child and the agency which provides child welfare services to enter into a written agreement which must be filed with the juvenile court that includes provisions stating some of the conditions and consequences of the child remaining under the jurisdiction of the juvenile court. **Section 18** further requires the agency which provides child welfare services to continue to provide services and ~~[financial support]~~ **monetary payments** to the child while the child remains under the jurisdiction of the court. **Section 18** also establishes a procedure for resolving issues involving a child who remains under the jurisdiction of the court. The agency which provides child welfare services and the child are required to attempt to resolve any issue before taking the issue to court. If the agency which provides child welfare services

~~[decides to recommend that]~~ **wishes to have** jurisdiction over the child ~~[be]~~ terminated, **section 18** requires the agency to provide notice to the child and an opportunity for the child to have an informal administrative review**.** ~~[of the decision.]~~ If the agency and the child are unable to reach an agreement, **section 18** authorizes the child or the attorney of the child to request a hearing before the court. **If the child and the attorney of the child agree to have jurisdiction terminated or do not request an administrative review, the agency which provides child welfare services must notify the court, and jurisdiction over the child will be terminated.**

Section 19 of this bill requires the agency which provides child welfare services to develop a written plan to assist a child who remains under the jurisdiction of the juvenile court in transitioning to independent living and provides other duties of the agency which provides child welfare services with respect to a child who remains under the jurisdiction of the juvenile court. **Section 19** also requires the agency which provides child welfare services to conduct an exit interview with such a child before the jurisdiction of the court is terminated to determine whether the child requires any additional services. **Section 20** of this bill revises the definition of "child" in existing law to clarify that a child who remains under the jurisdiction of the juvenile court after reaching 18 years of age is not included within that term for purposes of certain other provisions relating to the protection of children. **Section 21** of this bill similarly revises the definition of "custodian" in existing law to provide that the term does not include a custodian of such a child for purposes of certain other provisions relating to the protection of children.

Section 22 of this bill establishes the order of priority in which to place a child who is taken into protective custody and allows the child to be placed with certain persons who are not related to the child but with whom the child has developed a significant emotional and positive relationship. **Section 25** of this bill establishes the order of preference when placing a child with someone other than with a parent.

Sections 1-13 and 23 of this bill make various changes so that the provisions of NRS relating to a child who is in foster care are consistent and apply to a person who remains in foster care under the jurisdiction of a court after attaining 18 years of age in the same manner as a child in foster care who is less than 18 years of age.

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

Section 1. NRS 424.013 is hereby amended to read as follows:

424.013 "Family foster home" means a family home in which one to six children ***who are*** under 18 years of age ***or who remain under the jurisdiction of a court pursuant to section 18 of this act and who are*** not related within the first degree of consanguinity or affinity to the person or persons maintaining the home are received, cared for and maintained, for

compensation or otherwise, including the provision of permanent free care. The term includes a family home in which such a child is received, cared for and maintained pending completion of proceedings for the adoption of the child by the person or persons maintaining the home.

Sec. 2. NRS 424.015 is hereby amended to read as follows:

424.015 "Group foster home" means a natural person, partnership, firm, corporation or association who provides full-time care for 7 to 15 children who are:

1. Under 18 years of age ~~[,]~~ ***or who remain under the jurisdiction of a court pursuant to section 18 of this act;***

2. Not related within the first degree of consanguinity or affinity to any natural person maintaining or operating the home; and

3. Received, cared for and maintained for compensation or otherwise, including the provision of permanent free care.

Sec. 3. NRS 424.031 is hereby amended to read as follows:

424.031 1. The licensing authority or a person or entity designated by the licensing authority shall obtain from appropriate law enforcement agencies information on the background and personal history of each applicant for a license to conduct a foster home, prospective employee of that applicant or of a person who is licensed to conduct a foster home, and resident of a foster home who is 18 years of age or older, ***other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** to determine whether the person investigated has been arrested for or convicted of any crime.

2. The licensing authority or its approved designee may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

Sec. 4. NRS 424.033 is hereby amended to read as follows:

424.033 1. Each applicant for a license to conduct a foster home, prospective employee of that applicant or of a person who is licensed to conduct a foster home, or resident of a foster home who is 18 years of age or older ***, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** must submit to the licensing authority or its approved designee:

(a) A complete set of fingerprints and written permission authorizing the licensing authority or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report to enable the licensing authority or its approved designee to conduct an investigation pursuant to NRS 424.031; and

(b) Written permission to conduct a child abuse and neglect screening.

2. For each person who submits the documentation required pursuant to subsection 1, the licensing authority or its approved designee shall conduct a child abuse and neglect screening of the person in every state in which the person has resided during the immediately preceding 5 years.

3. The licensing authority or its approved designee may exchange with the Central Repository or the Federal Bureau of Investigation any information respecting the fingerprints submitted.

4. The Division shall assist the licensing authority of another state that is conducting a child abuse and neglect screening of a person who has resided in this State by providing information which is necessary to conduct the screening if the person who is the subject of the screening has signed a written permission authorizing the licensing authority to conduct a child abuse and neglect screening. The Division may charge a fee for providing such information in an amount which does not exceed the actual cost to the Division to provide the information.

5. When a report from the Federal Bureau of Investigation is received by the Central Repository, it shall immediately forward a copy of the report to the licensing authority or its approved designee.

Sec. 5. NRS 424.039 is hereby amended to read as follows:

424.039 1. A licensing authority or its approved designee may, in accordance with the procedures set forth in 28 C.F.R. §§ 901 et. seq., conduct a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history of a resident who is 18 years of age or older of a foster home in which the licensing authority wishes to place a child in an emergency situation ***, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** to determine whether the person investigated has been arrested for or convicted of any crime.

2. Upon request of a licensing authority that wishes to place a child in a foster home in an emergency situation, or upon request of the approved designee of the licensing authority, a resident who is 18 years of age or older of the foster home in which the licensing authority wishes to place the child ***, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** must submit to the licensing authority or its approved designee a complete set of fingerprints and written permission authorizing the licensing authority or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The licensing authority or its approved designee shall forward the fingerprints to the Central Repository for Nevada Records of Criminal History within the time set forth in federal law or regulation.

3. If a resident who is 18 years of age or older of a foster home in which a licensing authority places a child in an emergency situation ***, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** refuses to provide a complete set of fingerprints to the licensing authority or its approved designee upon request pursuant to subsection 2, the licensing authority must immediately remove the child from the foster home.

Sec. 6. NRS 432.010 is hereby amended to read as follows:

432.010 As used in this chapter, except as otherwise defined by specific statute or unless the context otherwise requires:

1. "Administrator" means the Administrator of the Division.

2. "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

3. "Child" means a person ***who is*** less than 18 years of age or ~~[, if in school, until graduation from high school.]~~ ***who remains under the jurisdiction of a court pursuant to section 18 of this act.***

4. "Department" means the Department of Health and Human Services.

5. "Director" means the Director of the Department.

6. "Division" means the Division of Child and Family Services of the Department.

7. "Maintenance" means general expenses for care such as board, shelter, clothing, transportation and other necessary or incidental expenses, or any of them, or monetary payments therefor.

8. "Special services" means medical, hospital, psychiatric, surgical or dental services, or any combination thereof.

Sec. 7. NRS 432A.0245 is hereby amended to read as follows:

432A.0245 ***1.*** ***"***Child care institution" means a facility which provides care and shelter during the day and night and provides developmental guidance to 16 or more children who do not routinely return to the homes of their parents or guardians. Such an institution may also provide, without limitation:

~~[1.]~~ ***(a)*** Education to the children according to a curriculum approved by the Department of Education;

~~[2.]~~ ***(b)*** Services to children who have been diagnosed as severely emotionally disturbed as defined in NRS 433B.045, including, without limitation, services relating to mental health and education; or

~~[3.]~~ ***(c)*** Emergency shelter to children who have been placed in protective custody pursuant to chapter 432B of NRS.

2. As used in this section, "child" includes a person who is less than 18 years of age or who remains under the jurisdiction of a court pursuant to section 18 of this act.

Sec. 8. NRS 432A.160 is hereby amended to read as follows:

432A.160 1. Except as otherwise provided in this section, the Bureau may issue a provisional license, effective for a period not exceeding 1 year, to a child care facility which:

(a) Is in operation at the time of adoption of standards and other regulations pursuant to the provisions of this chapter, if the Bureau determines that the facility requires a reasonable time under the particular circumstances, not to exceed 1 year from the date of the adoption, within which to comply with the standards and other regulations;

(b) Has failed to comply with the standards and other regulations, if the Bureau determines that the facility is in the process of making the necessary changes or has agreed to effect the changes within a reasonable time; or

(c) Is in the process of applying for a license, if the Bureau determines that the facility requires a reasonable time within which to comply with the standards and other regulations.

2. The provisions of subsection 1 do not require the issuance of a license or prevent the Bureau from refusing to renew or from revoking or suspending any license in any instance where the Bureau considers that action necessary for the health and safety of the occupants of any facility or the clients of any outdoor youth program.

3. A provisional license must not be issued pursuant to this section unless the Bureau has completed an investigation into the qualifications and background of the applicant and the employees of the applicant pursuant to NRS 432A.170 to ensure that the applicant and each employee of the applicant, or every resident of the child care facility ***who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** or participant in any outdoor youth program who is 18 years of age or older, has not been convicted of a crime listed in subsection 2 of NRS 432A.170 and has not had a substantiated report of child abuse or neglect made against him or her.

Sec. 9. NRS 432A.170 is hereby amended to read as follows:

432A.170 1. The Bureau may, upon receipt of an application for a license to operate a child care facility, conduct an investigation into the:

(a) Buildings or premises of the facility and, if the application is for an outdoor youth program, the area of operation of the program;

(b) Qualifications and background of the applicant or the employees of the applicant;

(c) Method of operation for the facility; and

(d) Policies and purposes of the applicant.

2. The Bureau shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility ***who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** or participant in an outdoor youth program who is 18 years of age or older, to determine whether the person has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use of a firearm or other deadly weapon;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(e) Abuse or neglect of a child or contributory delinquency;

(f) 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;

(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

3. The Bureau shall request information concerning every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility ***who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** or participant in an outdoor youth program who is 18 years of age or older, from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against any of them.

4. The Bureau may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

5. The information required to be obtained pursuant to subsections 2 and 3 must be requested concerning an:

(a) Employee of an applicant or licensee, resident of a child care facility ***who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** or participant in an outdoor youth program who is 18 years of age or older not later than 3 days after the employee is hired, the residency begins or the participant begins participating in the program, and then at least once every 6 years thereafter.

(b) Applicant at the time that an application is submitted for licensure, and then at least once every 6 years after the license is issued.

Sec. 10. NRS 432A.175 is hereby amended to read as follows:

432A.175 1. Every applicant for a license to operate a child care facility, licensee and employee of such an applicant or licensee, and every resident of a child care facility ***who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** or participant in an outdoor youth program who is 18 years of age or older, shall submit to the Bureau, or to the person or agency designated by the Bureau, to enable the Bureau to conduct an investigation pursuant to NRS 432A.170, a:

(a) Complete set of fingerprints and a written authorization for the Bureau or its designee to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(b) Written statement detailing any prior criminal convictions; and

(c) Written authorization for the Bureau to obtain any information that may be available from the Statewide Central Registry for the Collection of

Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

2. If an employee of an applicant for a license to operate a child care facility or licensee, or a resident of a child care facility ***who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** or participant in an outdoor youth program who is 18 years of age or older, has been convicted of any crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect filed against him or her, the Bureau shall immediately notify the applicant or licensee, who shall then comply with the provisions of NRS 432A.1755.

3. An applicant for a license to operate a child care facility or licensee shall notify the Bureau within 2 days after receiving notice that:

(a) The applicant, licensee or an employee of the applicant or licensee, or a resident of the child care facility ***who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** or participant in an outdoor youth program who is 18 years of age or older, or a facility or program operated by the applicant or licensee, is the subject of a lawsuit or any disciplinary proceeding; or

(b) The applicant or licensee, an employee, a resident or participant has been charged with a crime listed in subsection 2 of NRS 432A.170 or is being investigated for child abuse or neglect.

Sec. 11. NRS 432A.1755 is hereby amended to read as follows:

432A.1755 1. Upon receiving information pursuant to NRS 432A.175 from the Central Repository for Nevada Records of Criminal History or the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 or evidence from any other source that an employee of an applicant for a license to operate a child care facility or a licensee, or a resident of a child care facility ***who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** or participant in an outdoor youth program who is 18 years of age or older has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him or her, the applicant or licensee shall terminate the employment of the employee or remove the resident from the facility or participant from the outdoor youth program after allowing the employee, resident or participant time to correct the information as required pursuant to subsection 2.

2. If an employee, resident or participant believes that the information provided to the applicant or licensee pursuant to subsection 1 is incorrect, the employee, resident or participant must inform the applicant or licensee immediately. The applicant or licensee shall give any such employee, resident or participant 30 days to correct the information.

3. During any period in which an employee, resident or participant seeks to correct information pursuant to subsection 2, it is within the discretion of

the applicant or licensee whether to allow the employee, resident or participant to continue to work for or reside at the child care facility or participate in the outdoor youth program, as applicable.

Sec. 12. NRS 432A.1785 is hereby amended to read as follows:

432A.1785 1. Each applicant for a license to operate a child care facility and licensee shall maintain records of the information concerning its employees and any residents of the child care facility ***who are 18 years of age or older, other than residents who remain under the jurisdiction of a court pursuant to section 18 of this act,*** or participants in any outdoor youth program who are 18 years of age or older that is collected pursuant to NRS 432A.170 and 432A.175, including, without limitation:

(a) Proof that the applicant or licensee submitted fingerprints to the Central Repository for its report; and

(b) The written authorization to obtain information from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

2. The records maintained pursuant to subsection 1 must be made available for inspection by the Bureau at any reasonable time, and copies thereof must be furnished to the Bureau upon request.

Sec. 13. NRS 432A.190 is hereby amended to read as follows:

432A.190 1. The Bureau may deny an application for a license to operate a child care facility or may suspend or revoke such a license upon any of the following grounds:

(a) Violation by the applicant or licensee or an employee of the applicant or licensee of any of the provisions of this chapter or of any other law of this State or of the standards and other regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the child care facility for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the child care facility, or the clients of the outdoor youth program.

(e) Conviction of any crime listed in subsection 2 of NRS 432A.170 committed by the applicant or licensee or an employee of the applicant or licensee, or by a resident of the child care facility or participant in the outdoor youth program who is 18 years of age or older.

(f) Failure to comply with the provisions of NRS 432A.178.

(g) Substantiation of a report of child abuse or neglect made against the applicant or licensee.

(h) Conduct which is found to pose a threat to the health or welfare of a child or which demonstrates that the applicant or licensee is otherwise unfit to work with children.

(i) Violation by the applicant or licensee of the provisions of NRS 432A.1755 by continuing to employ a person, allowing a resident ***who***

is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act, to continue to reside in the child care facility or allowing a participant in an outdoor youth program to continue to participate in the program if the employee, or the resident or participant who is 18 years of age or older, has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him or her.

2. In addition to the provisions of subsection 1, the Bureau may revoke a license to operate a child care facility if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Bureau shall maintain a log of any complaints that it receives relating to activities for which the Bureau may revoke the license to operate a child care facility pursuant to subsection 2. The Bureau shall provide to a child care facility:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Bureau either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

➥ The facility shall make the information available to the public pursuant to NRS 432A.178.

4. In addition to any other disciplinary action, the Bureau may impose an administrative fine for a violation of any provision of this chapter or any regulation adopted pursuant thereto. The Bureau shall afford to any person so fined an opportunity for a hearing. Any money collected for the imposition of such a fine must be credited to the State General Fund.

5. On or before February 1 of each odd-numbered year, the Bureau shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Bureau pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Bureau pursuant to subsection 2.

Sec. 14. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 15 to 19, inclusive, of this act.

Sec. 15. ***As used in sections 15 to 19, inclusive, of this act, "child" means a person who is:***

1. Under the age of 18 years; and

2. Over the age of 18 years and who remains under the jurisdiction of the court pursuant to section 18 of this act.

Sec. 16. *1. A court shall refer a child who is in the custody of an agency which provides child welfare services to an attorney in the county who provides legal services without a charge to abused or neglected children if the court determines that the child:*

(a) Has reached the age of 17 years; and

(b) Is not likely to be returned to the custody of his or her parent before reaching the age of 18 years.

2. The court shall request the attorney to whom such a child is referred to counsel the child regarding the legal consequences of remaining under the jurisdiction of the court after reaching 18 years of age and assist the child in deciding whether to remain under the jurisdiction of the court.

Sec. 17. *1. At least 120 days before the date on which a child who is in the custody of an agency which provides child welfare services reaches the age of 18 years, the agency which provides child welfare services shall meet with the child to determine whether the child intends to request that the court retain jurisdiction over the child pursuant to section 18 of this act after the child reaches the age of 18 years.*

2. If the child indicates during the meeting held pursuant to subsection 1 that the child does not intend to request that the court retain jurisdiction over the child, the agency which provides child welfare services shall recommend that the court terminate jurisdiction over the child when the child reaches the age of 18 years.

3. Notwithstanding a determination made by a child during a meeting held pursuant to subsection 1, any time before reaching the age of 18 years, the child may:

(a) Inform the agency which provides child welfare services that the child intends to request that the court continue jurisdiction over the child pursuant to section 18 of this act, and the agency shall revise its recommendation to the court accordingly; or

(b) Request that the court retain jurisdiction over the child pursuant to section 18 of this act, and the court shall accept jurisdiction.

4. A child who enters into an agreement with an agency which provides child welfare services before the child reaches the age of 18 years to allow the child to live independently is not prohibited from requesting that the court retain jurisdiction over the child pursuant to section 18 of this act, and such a child is entitled to the same rights and protections set forth in sections 15 to 19, inclusive, of this act as provided to any other child.

Sec. 18. *1. A court which orders a child to be placed other than with a parent and which has jurisdiction over the child when the child reaches the age of 18 years shall retain jurisdiction over the child if the child so requests.*

2. Except as otherwise provided in this section, jurisdiction over a child that is retained pursuant to subsection 1 continues until:

(a) The agency which provides child welfare services, the child and the attorney of the child agree to terminate the jurisdiction ~~[after a hearing held pursuant to subsection 5 or, if the parties do not reach an agreement during such a hearing, the]~~ ;

(b) The court determines that:

(1) The child has achieved the goals set forth in the plan developed pursuant to section 19 of this act;

(2) The child is not making a good faith effort to achieve the goals set forth in the plan developed pursuant to section 19 of this act; or

(3) The circumstances of the child have changed in such a manner that it is infeasible for the child to achieve the goals set forth in the plan developed pursuant to section 19 of this act;

~~[(b)]~~ (c) The child requests that jurisdiction be terminated; or

~~[(c)]~~ (d) The child reaches of the age of 21 years,

➥ whichever occurs first.

3. If the court that retains jurisdiction over a child pursuant to this section transfers jurisdiction to another court in this State, the court which accepts jurisdiction must retain jurisdiction over the case for the period provided pursuant to this section.

4. A child who requests that the court retain jurisdiction over the child pursuant to this section must, upon reaching the age of 18 years, enter into a written agreement with the agency which provides child welfare services. The agreement, which must be filed with the court, must include, without limitation, the following provisions, which must specify that:

(a) The child voluntarily requested that the court retain jurisdiction over the child;

(b) While under the jurisdiction of the court, the child is entitled to continue to receive services from the agency which provides child welfare services and to receive ~~[financial support in the form of]~~ monetary payments ~~[made to the child]~~ directly or to have such payments provided to another ~~[person or governmental]~~ entity as designated in the plan developed pursuant to section 19 of this act in an amount not to exceed the ~~[amount paid for a child who is in]~~ rate of payment for foster care;

(c) While under the jurisdiction of the court, the child will no longer be under the legal custody of the agency which provides child welfare services, and the proceedings concerning the child conducted pursuant to NRS 432B.410 to 432B.590, inclusive, will terminate;

(d) The child may, at any time, request that jurisdiction over the child be terminated; and

(e) If there is an issue concerning the child while under the jurisdiction of the court, the child and the agency which provides child welfare services agree to attempt to resolve the issue before requesting a hearing before the court to address the issue.

5. If an issue arises concerning a child who remains under the jurisdiction of the court, the child, the agency which provides child welfare

services or the attorney assigned to the case may request a hearing before the court to address the issue. Before requesting such a hearing, the child and the agency which provides child welfare services must attempt to resolve the issue.

6. If the agency which provides child welfare services ~~[has decided to request that]~~ wishes to have the court terminate jurisdiction over the child, the agency which provides child welfare services must send a notice to the child and the attorney of the child informing the child and the attorney of the child ~~[of its decision and]~~ that the child has 15 days after receipt of the notice in which to request an informal administrative review . ~~[of that decision.]~~ If, during the administrative review, a resolution is not reached, the child or the attorney of the child may request a hearing before the court pursuant to subsection 5. If the child and the attorney of the child agree to have jurisdiction terminated or do not request an informal administrative review, the jurisdiction of the court must terminate upon notice to the court by the agency which provides child welfare services.

7. A child, while under the jurisdiction of the court pursuant to this section, is entitled to continue to receive services and ~~[financial support]~~ monetary payments from the agency which provides child welfare services ~~[. Such financial support must consist of payments made to the child]~~ directly or to have such payments provided to another person or ~~[governmental]~~ entity as designated in the plan developed pursuant to section 19 of this act in an amount not to exceed the ~~[amount paid for a child in]~~ rate of payment for foster care.

8. The court may issue any order which it deems appropriate or necessary to ensure:

(a) That the agency which provides child welfare services provides the services and ~~[financial support to]~~ monetary payments which the child is entitled to receive; and

(b) That the child who remains under the jurisdiction of the court is working towards achieving the goals of the plan developed pursuant to section 19 of this act.

Sec. 19. *1. If the court retains jurisdiction over a child pursuant to section 18 of this act, the agency which provides child welfare services shall develop a written plan to assist the child in transitioning to independent living. ~~[Except as otherwise provided in subsection 2, such]~~ Such a plan must include, without limitation, the following goals:*

(a) That the child save enough money to pay for his or her monthly expenses for at least 3 months;

(b) If the child has not graduated from high school or obtained a general equivalency diploma, that the child remain enrolled in high school or a program to obtain a general equivalency diploma until graduation or completion of the program;

(c) If the child has graduated from high school or obtained a general equivalency diploma, that the child:

(1) Enroll in a program of postsecondary or vocational education;

(2) Enroll or participate in a program or activity designed to promote or remove obstacles to employment; or

(3) Obtain or actively seek employment which is at least 80 hours per month;

(d) That the child secure housing;

(e) That the child have adequate income to meet his or her monthly expenses;

(f) That the child identify an adult who will be available to provide support to the child; [and]

(g) If applicable, that the child have established appropriate supportive services to address any mental health or developmental needs of the child [.2.] ; and

(h) If a child is not capable of achieving one or more of the goals set forth in paragraphs (a) to (g), inclusive, [of subsection 1, the agency which provides child welfare services shall develop the written plan with] that the child have goals which are appropriate for the child based upon the needs of the child.

[3.] 2. During the period in which the court retains jurisdiction over the child, the agency which provides child welfare services shall:

(a) Monitor the plan developed pursuant to [subsections] subsection 1 [and 2] and adjust the plan as necessary;

(b) Contact the child by telephone at least once each month and in person at least quarterly;

(c) Ensure that the child meets with a person who will provide guidance to the child and make the child aware of the services which will be available to the child; and

(d) Conduct a meeting with the child at least 30 days, but not more than 45 days, before the jurisdiction of the court is terminated to determine whether the child requires any additional guidance.

Sec. 20. NRS 432B.040 is hereby amended to read as follows:

432B.040 "Child" means a person under the age of 18 years ***[.] or , if in school, until graduation from high school. The term does not include a child who remains under the jurisdiction of the court pursuant to section 18 of this act.***

Sec. 21. NRS 432B.060 is hereby amended to read as follows:

432B.060 "Custodian" means a person or a governmental organization, other than a parent or legal guardian, who has been awarded legal custody of a child. ***The term does not include a person or governmental organization who continues to provide services to a child that remains under the jurisdiction of a court pursuant to section 18 of this act.***

Sec. 22. NRS 432B.390 is hereby amended to read as follows:

432B.390 1. An agent or officer of a law enforcement agency, an officer of the local juvenile probation department or the local department of

juvenile services, or a designee of an agency which provides child welfare services:

(a) May place a child in protective custody without the consent of the person responsible for the child's welfare if the agent, officer or designee has reasonable cause to believe that immediate action is necessary to protect the child from injury, abuse or neglect.

(b) Shall place a child in protective custody upon the death of a parent of the child, without the consent of the person responsible for the welfare of the child, if the agent, officer or designee has reasonable cause to believe that the death of the parent of the child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018.

2. When an agency which provides child welfare services receives a report pursuant to subsection 2 of NRS 432B.630, a designee of the agency which provides child welfare services shall immediately place the child in protective custody.

3. If there is reasonable cause to believe that the death of a parent of a child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018, a protective custody hearing must be held pursuant to NRS 432B.470, whether the child was placed in protective custody or with a relative. If an agency other than an agency which provides child welfare services becomes aware that there is reasonable cause to believe that the death of a parent of a child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018, that agency shall immediately notify the agency which provides child welfare services and a protective custody hearing must be scheduled.

4. An agency which provides child welfare services shall request the assistance of a law enforcement agency in the removal of a child if the agency has reasonable cause to believe that the child or the person placing the child in protective custody may be threatened with harm.

5. Before taking a child for placement in protective custody, the person taking the child shall show his or her identification to any person who is responsible for the child and is present at the time the child is taken. If a person who is responsible for the child is not present at the time the child is taken, the person taking the child shall show his or her identification to any other person upon request. The identification required by this subsection must be a single card that contains a photograph of the person taking the child and identifies the person as a person authorized pursuant to this section to place a child in protective custody.

6. A child placed in protective custody pending an investigation and a hearing held pursuant to NRS 432B.470 must be placed **,** ~~[in a hospital, if the child needs hospitalization, or in a shelter, which may include, without limitation, a foster home or other home or facility which provides care for those children,]~~ except as otherwise provided in NRS 432B.3905 ~~[.]~~ ***, in the following order of priority:***

(a) In a hospital, if the child needs hospitalization.

(b) With a person who is related within the fifth degree of consanguinity or a fictive kin, and who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative or fictive kin resides within this State.

(c) In a foster home that is licensed pursuant to chapter 424 of NRS.

(d) In any other licensed shelter that provides care to such children.

7. Whenever possible, a child placed pursuant to subsection 6 must be placed together with any siblings of the child. Such a child must not be placed in a jail or other place for detention, incarceration or residential care of persons convicted of a crime or children charged with delinquent acts.

~~[7.]~~ ***8.*** A person placing a child in protective custody pursuant to subsection 1 shall:

(a) Immediately take steps to protect all other children remaining in the home or facility, if necessary;

(b) Immediately make a reasonable effort to inform the person responsible for the child's welfare that the child has been placed in protective custody; ***and***

(c) ~~[Give preference in placement of the child to any person related within the fifth degree of consanguinity to the child who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State; and~~

~~(d)]~~ As soon as practicable, inform the agency which provides child welfare services and the appropriate law enforcement agency, except that if the placement violates the provisions of NRS 432B.3905, the person shall immediately provide such notification.

~~[8.]~~ ***9.*** If a child is placed with any person who resides outside this State, the placement must be in accordance with NRS 127.330.

10. As used in this section, "fictive kin" means a person who is not related by blood to a child but who has a significant emotional and positive relationship with the child.

Sec. 23. NRS 432B.391 is hereby amended to read as follows:

432B.391 1. An agency which provides child welfare services or its approved designee may, in accordance with the procedures set forth in 28 C.F.R. §§ 901 et. seq., conduct a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history of a resident who is 18 years of age or older of a home in which the agency which provides child welfare services wishes to place a child in an emergency situation ***, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** to determine whether the person investigated has been arrested for or convicted of any crime.

2. Upon request of an agency which provides child welfare services that wishes to place a child in a home in an emergency situation, or upon request of the approved designee of the agency which provides child welfare services, a resident who is 18 years of age or older of the home in which the

agency which provides child welfare services wishes to place the child ***, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** must submit to the agency which provides child welfare services or its approved designee a complete set of fingerprints and written permission authorizing the agency which provides child welfare services or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The agency which provides child welfare services or its approved designee shall forward the fingerprints to the Central Repository for Nevada Records of Criminal History within the time set forth in federal law or regulation.

3. If a resident who is 18 years of age or older of a home in which an agency which provides child welfare services places a child in an emergency situation ***, other than a resident who remains under the jurisdiction of a court pursuant to section 18 of this act,*** refuses to provide a complete set of fingerprints to the agency which provides child welfare services or its approved designee upon request pursuant to subsection 2, the agency which provides child welfare services must immediately remove the child from the home.

Sec. 24. (Deleted by amendment.)

Sec. 25. NRS 432B.550 is hereby amended to read as follows:

432B.550 1. If the court finds that a child is in need of protection, it may, by its order, after receipt and review of the report from the agency which provides child welfare services:

(a) Permit the child to remain in the temporary or permanent custody of the parents of the child or a guardian with or without supervision by the court or a person or agency designated by the court, and with or without retaining jurisdiction of the case, upon such conditions as the court may prescribe;

(b) Place the child in the temporary or permanent custody of a relative ***, a fictive kin*** or other person the court finds suitable to receive and care for the child with or without supervision, and with or without retaining jurisdiction of the case, upon such conditions as the court may prescribe; or

(c) Place the child in the temporary custody of a public agency or institution authorized to care for children, the local juvenile probation department, the local department of juvenile services or a private agency or institution licensed by the Department of Health and Human Services or a county whose population is 100,000 or more to care for such a child.

➥ In carrying out this subsection, the court may, in its sole discretion and in compliance with the requirements of chapter 159 of NRS, consider an application for the guardianship of the child. If the court grants such an application, it may retain jurisdiction of the case or transfer the case to another court of competent jurisdiction.

2. If, pursuant to subsection 1, a child is placed other than with a parent:

(a) The parent retains the right to consent to adoption, to determine the child's religious affiliation and to reasonable visitation, unless restricted by

the court. If the custodian of the child interferes with these rights, the parent may petition the court for enforcement of the rights of the parent.

(b) The court shall set forth good cause why the child was placed other than with a parent.

3. If, pursuant to subsection 1, the child is to be placed with a relative ~~[,]~~ ***or fictive kin,*** the court may consider, among other factors, whether the child has resided with a particular relative ***or fictive kin*** for 3 years or more before the incident which brought the child to the court's attention.

4. Except as otherwise provided in this subsection, a copy of the report prepared for the court by the agency which provides child welfare services must be sent to the custodian and the parent or legal guardian. If the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the location of the parent is unknown, the report need not be sent to that parent.

5. In determining the placement of a child pursuant to this section, if the child is not permitted to remain in the custody of the parents of the child or guardian:

(a) It must be presumed to be in the best interests of the child to be placed together with the siblings of the child.

(b) Preference must be given to placing the child ~~[with]~~ ***in the following order:***

(1) With any person related within the fifth degree of consanguinity to the child ***or a fictive kin, and*** who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative ***or fictive kin*** resides within this State.

~~[.]~~ ***(2) In a foster home that is licensed pursuant to chapter 424 of NRS.***

6. Any search for a relative with whom to place a child pursuant to this section must be completed within 1 year after the initial placement of the child outside of the home of the child. If a child is placed with any person who resides outside of this State, the placement must be in accordance with NRS 127.330.

~~[6.]~~ ***7.*** Within 60 days after the removal of a child from the home of the child, the court shall:

(a) Determine whether:

(1) The agency which provides child welfare services has made the reasonable efforts required by paragraph (a) of subsection 1 of NRS 432B.393; or

(2) No such efforts are required in the particular case; and

(b) Prepare an explicit statement of the facts upon which its determination is based.

8. As used in this section, "fictive kin" means a person who is not related by blood to a child but who has a significant emotional and positive relationship with the child.

Sec. 26. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 27. This act becomes effective upon passage and approval.

Assemblywoman Mastroluca moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 144.

The following Senate amendment was read:

Amendment No. 51.

AN ACT relating to public works; revising provisions relating to preferences in bidding for contracts for certain public works projects; requiring the inclusion in a contract for a public work of certain conditions that must be satisfied to obtain such a preference in bidding; providing for the investigation of a failure to satisfy the conditions for such a preference in bidding; providing for the recovery of damages for a failure to satisfy the provisions in a contract relating to preferences in bidding; prohibiting the use of a certificate of eligibility to receive a preference in bidding in certain circumstances; prohibiting a person from bidding on a public work in certain circumstances; revising provisions relating to the keeping, by certain persons, of records relating to public works; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a contract for a public work is awarded to the contractor who submits the best bid. A contractor may qualify for a preference in bidding on a contract for a public work if the contractor has submitted proof to the State Contractors' Board that the contractor has paid certain taxes to the State for the past 5 years. (NRS 338.1389, 338.147)

Sections 2, 9-11, 13 and 16 of this bill require that a contractor, an applicant or a design-build team, respectively, must meet five additional criteria to receive a preference in bidding on a contract for a public work. Specifically, **section 2** requires that, in addition to the existing requirements for a preference in bidding on a contract for a public work, the contractor, applicant or design-build team must ensure that: (1) at least 50 percent of the workers on the public work have a Nevada driver's license or identification card; (2) all of the non-apportioned vehicles primarily used on the public work are registered in Nevada; (3) at least 50 percent of the design professionals who work on the public work have a Nevada driver's license or identification card; (4) at least 25 percent of the **suppliers of the** materials used in the public work are ~~[purchased]~~ **located** in Nevada; and (5) certain payroll records related to the public work are maintained and available within this State.

Section 2 also requires that, if a contractor, applicant or design-build team who receives a preference in bidding is awarded a contract for a public work, the contract must include those five requirements for a preference in bidding on a contract for a public work and provide that failure to comply with any of

those five requirements is a material breach of the contract that entitles the public body to damages in the amount of 10 percent of the cost of the contract. **Additionally, section 2 requires each contract between a contractor, applicant or design-build team who receives a preference in bidding and a subcontractor to include a provision that apportions the liability for damages for a material breach of the contract for a public work between the contractor and subcontractor in proportion to each party's liability. Sections 9 and 10** of this bill provide that a contractor who breaches any of those five requirements for a contract for a public work the cost of which exceeds $5,000,000 loses his or her certification for a preference in bidding for 5 years. **Sections 3, 6-8 and 14** of this bill provide that a contractor, applicant or design-build team who breaches any of those five requirements for a contract for a public work the cost of which exceeds $25,000,000 loses his or her ability to bid on any contracts for public works for one year.

Section 17 of this bill provides that those five requirements for a preference in bidding on a contract for a public work apply to any public work that is first advertised for bid after the effective date of this bill. **Section 17** also declares that any contract for such a public work that fails to comply with this bill is void.

Section 5 of this bill revises the records that a contractor or subcontractor engaged on a public work must keep relating to their workers.

WHEREAS, The State of Nevada has been disproportionately affected by the Great Recession, suffering from the nation's highest unemployment rate at 14.5 percent as of December 2010, which is also the highest unemployment rate in state history; and

WHEREAS, According to the current employment statistics compiled by the Research and Analysis Bureau of the Department of Employment, Training and Rehabilitation, the construction sector in the State has been particularly hard-hit, with over 60 percent of all construction jobs in the State eliminated from June 2006 through December 2010, accounting for a loss of about 91,700 jobs; and

WHEREAS, Investment in the State's public works and infrastructure is both crucial to the economic recovery of the State today and essential to investing in Nevada's future; and

WHEREAS, Giving priority in bidding on state and local public works projects to Nevada businesses that employ Nevada workers is critically important in addressing both the historically high state unemployment rate in general and the incredible damage done to the construction sector in particular by the Great Recession; and

WHEREAS, The Nevada Legislature has determined that the extreme shortage of jobs for Nevada workers poses a serious threat to the economy of the State which necessitates a reasonable yet immediately effective response to put Nevadans back to work; now, therefore,

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. To qualify to receive a preference in bidding pursuant to subsection 2 of NRS 338.1389, subsection 2 of NRS 338.147, subsection 3 of NRS 338.1693, subsection 3 of NRS 338.1727 or subsection 2 of NRS 408.3886, a contractor, an applicant or a design-build team, respectively, must submit to the public body sponsoring or financing a public work a signed affidavit which certifies that, for the duration of the project:***

(a) At least 50 percent of all workers employed on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will hold a valid driver's license or identification card issued by the Department of Motor Vehicles;

(b) All vehicles used primarily for the public work will be:

(1) Registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or

(2) Registered in this State;

(c) At least 50 percent of the design professionals working on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will have a valid driver's license or identification card issued by the Department of Motor Vehicles;

(d) At least 25 percent of the suppliers of the materials used for the public work will be ~~[purchased]~~ located in this State; and

(e) The contractor, applicant or design-build team and any subcontractor engaged on the public work will maintain and make available for inspection within this State his or her records concerning payroll relating to the public work.

2. Any contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 must:

(a) Include a provision in the contract that substantially incorporates the requirements of paragraphs (a) to (e), inclusive, of subsection 1; and

(b) Provide that a failure to comply with any requirement of paragraphs (a) to (e), inclusive, of subsection 1 is a material breach of the contract and entitles the public body to liquidated damages in the amount of 10 percent of the cost of the contract.

3. A person or entity who believes that a contractor, applicant or design-build team has obtained a preference in bidding as described in subsection 1 but has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 may file a written objection with the public

body for which the contractor, applicant or design-build team is performing the public work. A written objection authorized pursuant to this subsection must set forth proof or substantiating evidence to support the belief of the person or entity that the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1.

4. If a public body receives a written objection pursuant to subsection 3, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection. If the public body determines that the objection is accompanied by the required proof or substantiating evidence or if the public body determines on its own initiative that proof or substantiating evidence of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 exists, the public body shall determine whether the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 and the public body or its authorized representative may proceed to award the contract accordingly or, if the contract has already been awarded, seek the remedy authorized in subsection 5.

5. A public body may recover by civil action liquidated damages as described in paragraph (b) of subsection 2 for a breach of a contract for a public work caused by a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1. If a public body recovers liquidated damages pursuant to this subsection for a breach of a contract for a public work, the public body shall report to the State Contractors' Board the date of the breach, the name of each entity which breached the contract and the cost of the contract. The Board shall maintain this information for not less than 6 years. Upon request, the Board shall provide this information to any public body or its authorized representative.

6. If a contractor, applicant or design-build team submits the affidavit described in subsection 1, receives a preference in bidding described in subsection 1 and is awarded the contract, each contract between the contractor, applicant or design-build team and a subcontractor must provide for the apportionment of liquidated damages assessed pursuant to subsection 5 if a person other than the contractor was responsible for the breach of a contract for a public work caused by a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1. The apportionment of liquidated damages must be in proportion to the responsibility of each party for the breach.

7. A public body that awards a contract for a public work to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 shall, on or before July 31 of each year, submit a

written report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission. The report must include information on each contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 including, without limitation, the name of the contractor, applicant or design-build team who was awarded the contract, the cost of the contract, a brief description of the public work and a description of the degree to which the contractor, applicant or design-build team and each subcontractor complied with the requirements of paragraphs (a) to (e), inclusive, of subsection 1.

Sec. 3. ***A local government or its authorized representative shall not accept a bid on a contract for a public work if the contractor who submits the bid has, within the preceding year, breached a contract for a public work for which the cost exceeds $25,000,000 by failing to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act.***

Sec. 4. NRS 338.0115 is hereby amended to read as follows:

338.0115 1. Except as otherwise provided in subsection 2, the provisions of this chapter and chapters 332 and 339 of NRS do not apply to a contract under which a private developer, for the benefit of a private development, constructs a water or sewer line extension and any related appurtenances:

(a) Which qualify as a public work pursuant to NRS 338.010; and

(b) For which the developer will receive a monetary contribution or refund from a public body as reimbursement for a portion of the costs of the project.

2. If, pursuant to the provisions of such a contract, the developer is not responsible for paying all of the initial construction costs of the project, the provisions of NRS 338.013 to 338.090, inclusive, and 338.1373 to 338.148, inclusive, ***and sections 2 and 3 of this act*** apply to the contract.

Sec. 5. NRS 338.070 is hereby amended to read as follows:

338.070 1. Any public body awarding a contract shall:

(a) Investigate possible violations of the provisions of NRS 338.010 to 338.090, inclusive, committed in the course of the execution of the contract, and determine whether a violation has been committed and inform the Labor Commissioner of any such violations; and

(b) When making payments to the contractor engaged on the public work of money becoming due under the contract, withhold and retain all sums forfeited pursuant to the provisions of NRS 338.010 to 338.090, inclusive.

2. No sum may be withheld, retained or forfeited, except from the final payment, without a full investigation being made by the awarding public body.

3. Except as otherwise provided in subsection 6, it is lawful for any contractor engaged on a public work to withhold from any subcontractor engaged on the public work sufficient sums to cover any penalties withheld

from the contractor by the awarding public body on account of the failure of the subcontractor to comply with the terms of NRS 338.010 to 338.090, inclusive. If payment has already been made to the subcontractor, the contractor may recover from the subcontractor the amount of the penalty or forfeiture in a suit at law.

4. A contractor engaged on a public work and each subcontractor engaged on the public work shall keep or cause to be kept ~~[an]~~ ***:***

(a) An accurate record showing ~~[the]~~ ***, for each worker employed by the contractor or subcontractor in connection with the public work:***

~~*[(a)]*~~ ***(1) The*** name ~~[,]~~ ***of*** the ***worker;***

~~*[(b)]*~~ ***(2) The*** occupation ***of the worker;***

~~*[(c)]*~~ ***(3) If*** ~~*[any, the driver's license number or identification card number of]*~~ ***the worker*** ~~*[, including, without limitation,]*~~ ***has a driver's license or identification card, an indication of the state or other jurisdiction that issued the license or card;*** and ~~[the]~~

~~*[(d)]*~~ ***(4) The*** actual per diem, wages and benefits paid to ~~[each]~~ ***the*** worker ~~*[,]*~~ ~~[employed by the contractor and subcontractor in connection with the public work.]~~ ***; and***

(b) An additional accurate record showing, for each worker employed by the contractor or subcontractor in connection with the public work who has a driver's license or identification card:

(1) The name of the worker;

(2) The driver's license number or identification card number of the worker; and

(3) The state or other jurisdiction that issued the license or card.

5. The ~~[record]~~ ***records*** maintained pursuant to subsection 4 must be open at all reasonable hours to the inspection of the public body awarding the contract. The contractor engaged on the public work or subcontractor engaged on the public work shall ensure that a copy of ~~[the]~~ ***each*** record for each calendar month is received by the public body awarding the contract no later than 15 days after the end of the month. The copy ***of the record maintained pursuant to paragraph (a) of subsection 4*** must be open to public inspection as provided in NRS 239.010. ***The copy of the record maintained pursuant to paragraph (b) of subsection 4 is confidential and not open to public inspection.*** The ~~[record]~~ ***records*** in the possession of the public body awarding the contract may be discarded by the public body 2 years after final payment is made by the public body for the public work.

6. A contractor engaged on a public work shall not withhold from a subcontractor engaged on the public work the sums necessary to cover any penalties provided pursuant to subsection 3 of NRS 338.060 that may be withheld from the contractor by the public body awarding the contract because the public body did not receive a copy of the record maintained by the subcontractor pursuant to subsection 4 for a calendar month by the time specified in subsection 5 if:

(a) The subcontractor provided to the contractor, for submission to the public body by the contractor, a copy of the record not later than the later of:

(1) Ten days after the end of the month; or

(2) A date agreed upon by the contractor and subcontractor; and

(b) The contractor failed to submit the copy of the record to the public body by the time specified in subsection 5.

➥ Nothing in this subsection prohibits a subcontractor from submitting a copy of a record for a calendar month directly to the public body by the time specified in subsection 5.

7. Any contractor or subcontractor, or agent or representative thereof, performing work for a public work who neglects to comply with the provisions of this section is guilty of a misdemeanor.

Sec. 6. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of ~~[:]~~ ***section 3 of this act and:***

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive;

(c) NRS 338.169 to 338.1699, inclusive; or

(d) NRS 338.1711 to 338.1727, inclusive.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.1699, inclusive, and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 7. NRS 338.1379 is hereby amended to read as follows:

338.1379 1. Except as otherwise provided in NRS 338.1382, a contractor who wishes to qualify as a bidder on a contract for a public work must submit an application to the State Public Works Board or the local government.

2. Upon receipt of an application pursuant to subsection 1, the State Public Works Board or the local government shall:

(a) Investigate the applicant to determine whether the applicant is qualified to bid on a contract; and

(b) After conducting the investigation, determine whether the applicant is qualified to bid on a contract. The determination must be made within 45 days after receipt of the application.

3. The State Public Works Board or the local government shall notify each applicant in writing of its determination. If an application is denied, the notice must set forth the reasons for the denial and inform the applicant of the right to a hearing pursuant to NRS 338.1381.

4. The State Public Works Board or the local government may determine an applicant is qualified to bid:

(a) On a specific project; or

(b) On more than one project over a period of time to be determined by the State Public Works Board or the local government.

5. ~~[The]~~ ***Except as otherwise provided in subsection 8, the*** State Public Works Board shall not use any criteria other than criteria adopted by regulation pursuant to NRS 338.1375 in determining whether to approve or deny an application.

6. ~~[The]~~ ***Except as otherwise provided in subsection 8, the*** local government shall not use any criteria other than the criteria described in NRS 338.1377 in determining whether to approve or deny an application.

7. Except as otherwise provided in NRS 239.0115, financial information and other data pertaining to the net worth of an applicant which is gathered by or provided to the State Public Works Board or a local government to determine the financial ability of an applicant to perform a contract is confidential and not open to public inspection.

8. The State Public Works Board or the local government shall deny an application and revoke any existing qualification to bid if it finds that the applicant has, within the preceding year, breached a contract for a public work for which the cost exceeds $25,000,000 by failing to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act.

Sec. 8. NRS 338.1382 is hereby amended to read as follows:

338.1382 In lieu of adopting criteria pursuant to NRS 338.1377 and determining the qualification of bidders pursuant to NRS 338.1379, a governing body may deem a person to be qualified to bid on:

1. Contracts for public works of the local government if the person ***has not, within the preceding year, breached a contract for a public work for which the cost exceeds $25,000,000 by failing to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act, and*** has been determined by:

(a) The State Public Works Board pursuant to NRS 338.1379 to be qualified to bid on contracts for public works of the State pursuant to criteria adopted pursuant to NRS 338.1375; or

(b) Another governing body pursuant to NRS 338.1379 to be qualified to bid on contracts for public works of that local government pursuant to the criteria set forth in NRS 338.1377.

2. A contract for a public work of the local government if:

(a) The person has been determined by the Department of Transportation pursuant to NRS 408.333 to be qualified to bid on the contract for the public work;

(b) The public work will be owned, operated or maintained by the Department of Transportation after the public work is constructed by the local government; and

(c) The Department of Transportation requested that bidders on the contract for the public work be qualified to bid on the contract pursuant to NRS 408.333.

Sec. 9. NRS 338.1389 is hereby amended to read as follows:

338.1389 1. Except as otherwise provided in subsection 10 and NRS 338.1385, 338.1386 and 338.13864, a public body or its authorized representative shall award a contract for a public work for which the estimated cost exceeds $250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a responsive and responsible contractor who:

(1) Has been determined by the public body to be a qualified bidder pursuant to NRS 338.1379 or 338.1382; ~~[and]~~

(2) At the time the contractor submits his or her bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

(3) At the time the contractor submits his or her bid, submits a signed affidavit that meets the requirements of subsection 1 of section 2 of this act; and

(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who ~~[does]~~ ***:***

(1) Does not have, at the time he or she submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him or her by the State Contractors' Board pursuant to subsection 3 or 4 ~~[.]~~ ***; or***

(2) Does not submit, at the time he or she submits the bid, a signed affidavit certifying that he or she will comply with the requirements of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act for the duration of the contract,

➥ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than $5,000 for each consecutive 12-month period for 60 months

immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes that were paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes that were paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless the contractor reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, the contractor must submit a separate application for each license pursuant to which the contractor wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works ~~[~~submits~~]~~ ***:***

(a) Submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information ~~[.]~~ ***; or***

(b) Is found by the Board to have, within the preceding 5 years, breached a contract for a public work for which the cost exceeds $5,000,000 by failing to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act, the contractor is not eligible to receive a preference in bidding on public works.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed the best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the public body to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the public body not later than 3 business days after the opening of the bids by the public body or its authorized representative.

14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.

Sec. 10. NRS 338.147 is hereby amended to read as follows:

338.147 1. Except as otherwise provided in subsection 10 and NRS 338.143, 338.1442 and 338.1446, a local government or its authorized representative shall award a contract for a public work for which the estimated cost exceeds $250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a contractor who:

(1) Has been found to be a responsible and responsive contractor by the local government or its authorized representative; ~~[and]~~

(2) At the time the contractor submits his or her bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

(3) At the time the contractor submits his or her bid, submits a signed affidavit that meets the requirements of subsection 1 of section 2 of this act; and

(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who ~~[does]~~ ***:***

(1) Does not have, at the time he or she submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works

issued to him or her by the State Contractors' Board pursuant to subsection 3 or 4 ~~.~~ ***; or***

(2) Does not submit, at the time he or she submits the bid, a signed affidavit certifying that he or she will comply with the requirements of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act for the duration of the contract,

➥ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on

an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless the contractor reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, the contractor must submit a separate application for each license pursuant to which the contractor wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works ~~[~~submits~~]~~ ***:***

(a) Submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information ~~[.]~~ ***; or***

(b) Is found by the Board to have, within the preceding 5 years, breached a contract for a public work for which the cost exceeds $5,000,000 by failing to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act, the contractor is not eligible to receive a preference in bidding on public works.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed a best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the local government to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the local government not later than 3 business days after the opening of the bids by the local government or its authorized representative.

14. If a local government receives a written objection pursuant to subsection 13, the local government shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the local government determines that the objection is not accompanied by the required proof or substantiating evidence, the local government shall dismiss the objection and the local government or its authorized representative may proceed immediately to award the contract. If the local government determines that the objection is accompanied by the required proof or substantiating evidence, the local

government shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the local government or its authorized representative may proceed to award the contract accordingly.

Sec. 11. NRS 338.1693 is hereby amended to read as follows:

338.1693 1. The local government shall appoint a panel consisting of at least three members to rank the statements of qualifications submitted to the local government by evaluating the statements of qualifications as required pursuant to subsections 2 and 3.

2. The panel shall rank the statements of qualifications by:

(a) Verifying that each applicant satisfies the requirements of NRS 338.1691; and

(b) Conducting an evaluation of the qualifications of each applicant based on the factors and relative weight assigned to each factor that the local government specified in the request for statements of qualifications advertised pursuant to NRS 338.1692.

3. When ranking the statements of qualifications, the panel shall assign a relative weight of 5 percent to the ***applicant's*** possession of a certificate of eligibility to receive a preference in bidding on public works ~~[.]~~ ***if the applicant submits a signed affidavit that meets the requirements of subsection 1 of section 2 of this act.***

4. After the panel ranks the statements of qualifications, the local government shall:

(a) Make available to the public the rankings of the applicants; and

(b) Except as otherwise provided in subsection 5, select at least the two but not more than the five applicants that the panel determined to be most qualified as finalists to submit final proposals to the local government pursuant to NRS 338.1694.

5. If the local government did not receive at least two statements of qualifications from applicants that the panel determines to be qualified pursuant to this section and NRS 338.1691, the local government may not contract with a construction manager at risk.

Sec. 12. NRS 338.1699 is hereby amended to read as follows:

338.1699 1. To be eligible to provide materials, equipment, work or other services on a public work for which a construction manager at risk was awarded a contract pursuant to NRS 338.1696, a subcontractor must be:

(a) Licensed pursuant to chapter 624 of NRS; and

(b) Selected by the construction manager at risk based on the process of competitive bidding set forth in the applicable provisions of NRS 338.1373 to 338.148, inclusive ~~[.]~~ ***, and sections 2 and 3 of this act.***

2. A construction manager at risk to whom a contract for the construction of a public work is awarded pursuant to NRS 338.1696 shall submit to the local government that awarded the contract or its authorized representative a list containing the names of each subcontractor with whom the construction

manager at risk intends to enter into a contract for the provision of materials, equipment, work or other services on the public work.

Sec. 13. NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the ***design-build team's*** possession of a certificate of eligibility to receive a preference in bidding on public works ***if the design-build team submits a signed affidavit that meets the requirements of subsection 1 of section 2 of this act,*** and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to preference in bidding on public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body, at a regularly scheduled meeting, shall:

(a) Select the final proposal, using the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected; or

(b) Reject all the final proposals.

7. If a public body selects a final proposal and awards a design-build contract pursuant to paragraph (a) of subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

Sec. 14. NRS 408.333 is hereby amended to read as follows:

408.333 Except as otherwise provided in NRS 408.3875 to 408.3887, inclusive:

1. Before furnishing any person proposing to bid on any advertised work with the plans and specifications for such work, the Director shall require from the person a statement, verified under oath, in the form of answers to questions contained in a standard form of questionnaire and financial statement, which must include a complete statement of the person's financial ability and experience in performing public work of a similar nature.

2. Such statements must be filed with the Director in ample time to permit the Department to verify the information contained therein in advance of furnishing proposal forms, plans and specifications to any person proposing to bid on the advertised public work, in accordance with the regulations of the Department.

3. Whenever the Director is not satisfied with the sufficiency of the answers contained in the questionnaire and financial statement, the Director may refuse to furnish the person with plans and specifications and the official proposal forms on the advertised project. ***If the Director determines that the person has, within the preceding year, breached a contract for a public work for which the cost exceeds $25,000,000 by failing to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act, the Director shall refuse to furnish the person with plans and specifications and the official proposal forms on the advertised project.*** Any bid of any person to whom plans and specifications and the official proposal forms have not been issued in accordance with this section must be disregarded, and the certified check, cash or undertaking of such a bidder returned forthwith.

4. Any person who is disqualified by the Director, in accordance with the provisions of this section, may request, in writing, a hearing before the Director and present again the person's check, cash or undertaking and such further evidence with respect to the person's financial responsibility, organization, plant and equipment, or experience, as might tend to justify, in his or her opinion, issuance to him or her of the plans and specifications for the work.

5. Such a person may appeal the decision of the Director to the Board no later than 5 days before the opening of the bids on the project. If the appeal is sustained by the Board, the person must be granted the rights and privileges of all other bidders.

Sec. 15. NRS 408.3883 is hereby amended to read as follows:

408.3883 1. The Department shall advertise for preliminary proposals for the design and construction of a project by a design-build team in a newspaper of general circulation in this State.

2. A request for preliminary proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the proposed project;

(b) Separate estimates of the costs of designing and constructing the project;

(c) The dates on which it is anticipated that the separate phases of the design and construction of the project will begin and end;

(d) The date by which preliminary proposals must be submitted to the Department, which must not be less than 30 days after the date that the request for preliminary proposals is first published in a newspaper pursuant to subsection 1; and

(e) A statement setting forth the place and time in which a design-build team desiring to submit a proposal for the project may obtain the information necessary to submit a proposal, including, without limitation, the information set forth in subsection 3.

3. The Department shall maintain at the time and place set forth in the request for preliminary proposals the following information for inspection by a design-build team desiring to submit a proposal for the project:

(a) The extent to which designs must be completed for both preliminary and final proposals and any other requirements for the design and construction of the project that the Department determines to be necessary;

(b) A list of the requirements set forth in NRS 408.3884;

(c) A list of the factors that the Department will use to evaluate design-build teams who submit a proposal for the project, including, without limitation:

(1) The relative weight to be assigned to each factor pursuant to NRS 408.3886; and

(2) A disclosure of whether the factors that are not related to cost are, when considered as a group, more or less important in the process of evaluation than the factor of cost;

(d) Notice that a design-build team desiring to submit a proposal for the project must include with its proposal the information used by the Department to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of NRS 408.3885 and a description of that information;

(e) A statement that a design-build team whose prime contractor holds a certificate of eligibility to receive a preference in bidding on public works issued pursuant to NRS 338.1389 or 338.147 should submit ***with its proposal*** a copy of the certificate of eligibility ~~[with its proposal;]~~ ***and a signed affidavit that meets the requirements of subsection 1 of section 2 of this act;*** and

(f) A statement as to whether a bidding design-build team that is selected as a finalist pursuant to NRS 408.3885 but is not awarded the design-build contract pursuant to NRS 408.3886 will be partially reimbursed for the cost of preparing a final proposal or best and final offer, or both, and, if so, an estimate of the amount of the partial reimbursement.

Sec. 16. NRS 408.3886 is hereby amended to read as follows:

408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the ***design-build team's*** possession of a certificate of eligibility to receive a preference in bidding on public works ***if the design-build team submits a signed affidavit that meets the requirements of subsection 1 of section 2 of this act,*** and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to preference in bidding on public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.

4. After receiving the final proposals for the project, the Department shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;

(b) Reject all the final proposals; or

(c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be

submitted to the Department. After receiving the best and final offers, the Department shall:

(a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or

(b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

(a) Review and ratify the selection.

(b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

Sec. 17. 1. The amendatory provisions of this act apply to all public works for which bids are first advertised after the effective date of this act.

2. Any contract awarded for a public work to which the amendatory provisions of this act apply pursuant to subsection 1 and:

(a) Which was not advertised in compliance with the amendatory provisions of this act;

(b) For which bids were not accepted in compliance with the amendatory provisions of this act; or

(c) For which the contract was not awarded in compliance with the amendatory provisions of this act,

➥ is void.

3. As used in this section, "contract" and "public work" have the meanings ascribed to them in NRS 338.010.

Sec. 18. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 144.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Bill No. 220 and Senate Concurrent Resolution No. 7.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Benitez-Thompson, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Rainshadow Community Charter School: Sam O'Brien, Marissa Alcorn, Robbie Brammer, Cheyenne Duplan, Phoebe Hill, Dawn Livingwater, Ben Metler, Jesse Salinas, Jevanna Sudduth, Cody Swanson, Alicia York, and Claritssa Sanchez.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Lisa Heck.

On request of Assemblyman Hansen, the privilege of the floor of the Assembly Chamber for this day was extended to Lew Polizzi and Nora Polizzi; and the following students and chaperones from Ester Bennett Elementary School: Bailey Wood, Emily Styberski, Alyssa Ibarra, Jose Pintor, Colette Joliff, Brandon Valazquez, Joe Collins, Kylee Ryan, Jordan Hutchinson, Richard Talavera, Nico Murillo, Ricky Mondragon, Margarita Flores, Ashley Cruz, Andres Reyes, Francisco Gonzalez, Destiny Flores, Chance Stockford, Alexis Bustos, Oscar Gonzales, Samuel Morey, Dakota Melenke, Chris Bonney, Obed Robles, Giovanni Gonzales, Jose Medina, Jesse Barker, Nicholai Gastelum, Samantha Rendon Diaz, Julianna Durante, Jaidynn Matinez, Pamela Kiss, Makenna Suratt, Conner Puiliti, Jesus Alverez, Naelia Pinedo, Jonathan Hernandez, Sarai Velazquez, Alan Chavez, Hannah Cay, Jazmyn Vandermey, Yadira Villalpando, Hannah Bishop, Sierra Ziegler,

Joey Duron, Cesar Jovani Aldana-Perez, Jesus Zamudio, Luka Murillo, Alexander Jacinto-Torres, Juan Jimenez, Kasey Reisinger, Levi Williams-Smith, Amando Aguilar, Leslie Cordero, Nayeli Cuevas, Joanna Deleon, Anthony Gonzalez, Elayne Guillen, Cristian Hernandez, Kaci Hitt, Logan Irwin, Jason Livernash, Sean McCall, Monica Moreno, Yesenia Puentes, Hector Robles, Donovan Sepulveda , Bryan Williams, and Alexis Hansen.

On request of Assemblyman Kite, the privilege of the floor of the Assembly Chamber for this day was extended to Blayne Osborn.

On request of Assemblyman Livermore, the privilege of the floor of the Assembly Chamber for this day was extended to Ty Niethold and Laurie Livermore.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Calvina Willliams.

Assemblyman Conklin moved that the Assembly adjourn until Tuesday, April 26, 2011, at 11 a.m.

Motion carried.

Assembly adjourned at 7:42 p.m.

Approved: JOHN OCEGUERA
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly