

**THE ONE HUNDRED THIRTEENTH DAY**

---

CARSON CITY (Monday), May 30, 2011

Assembly called to order at 10:19 a.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblyman Grady, who was excused.

Prayer by the Chaplain, Steven Brooks.

Today we celebrate Memorial Day, O Lord. Let us not forget those who have laid down their lives in the quest for freedom for this great nation that we serve. Please help us to remember that as they have served us, we in turn must serve them.

Let this body understand that it is You who chooses soldiers to fight Your battles as You did with Gideon's army; for Gideon assembled 32,000 soldiers, but You only allowed him to defeat the vast army of enemies with 300. You did this to demonstrate Your power when Your people put their trust in You.

As we enter this institution that soldiers and Americans have fought so hard to protect, let us remember that it is Your people that we serve. We have been dealt a great task, but please do not let us think for one minute it is about us. Let us not forget that this is the "People's House," and the will of the people shall, and should always be, heard.

As I mentioned before, we came to fight a spiritual battle. Ephesians 12 tells us:

"For our struggle is not against enemies of blood and flesh, but against the rulers, against the authorities, against the cosmic powers of this present darkness, and against the spiritual forces of evil in the heavenly places. Therefore let us take up your whole armor of God so that you may be able to withstand on that evil day, and having done everything, to stand firm."

With that, I pray that You be with the families that have buried a loved one and of the troops that are fighting overseas. I also ask that You be with our families as we serve You in Carson City.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

**REPORTS OF COMMITTEES**

*Mr. Speaker:*

Your Committee on Government Affairs, to which was referred Senate Bill No. 82, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Senate Bill No. 384, 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 Taxation, to which was referred Senate Bill No. 32, 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 Taxation, to which was referred Senate Bill No. 34, 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 Ways and Means, to which was referred Assembly Bill No. 497, 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 Ways and Means, to which was referred Senate Bill No. 472, 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 Ways and Means, to which was rereferred Assembly Bill No. 511, 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 Ways and Means, to which was rereferred Assembly Bill No. 546, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

*Mr. Speaker:*

Your Concurrent Committee on Ways and Means, to which was referred Assembly Bill No. 222, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that for the balance of the session, all rules be suspended, reading so far had considered second reading, rules further suspended, and all bills and joint resolutions be declared emergency measures under the Constitution and immediately placed on third reading and final passage.

Motion carried.

Assemblyman Conklin moved that for the balance of session, all rules be suspended and that all bills and joint resolutions reported out of committee, having already received their second reading, be immediately placed on third reading and final passage.

Motion carried.

Assemblyman Conklin moved that all rules be suspended and the Assembly dispense with the reprinting of all legislative measures for the current legislative day.

Motion carried.

Assemblyman Conklin moved that all rules be suspended and that all bills and joint resolutions reported out of committee with amendments be placed at the top of the General File for the current legislative day.

Motion carried.

Assemblyman Conklin moved that all rules be suspended and that all bills and joint resolutions taken from the Chief Clerk's desk for purposes of amendment be immediately placed at the top of General File.

Motion carried.

#### MESSAGES FROM THE SENATE

SENATE CHAMBER Carson City, May 29, 2011

##### *To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 20, Senate Amendment No. 618, and requests a conference, and appointed Senators Schneider, Breeden and Roberson as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 39, Senate Amendment No. 598, and requests a conference, and appointed Senators Wiener, Kihuen and Cegavske as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 40, Senate Amendment No. 599, and requests a conference, and appointed Senators Kihuen, Wiener and Gustavson as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 498, Senate Amendment No. 621, and requests a conference, and appointed Senators Denis, Leslie and Cegavske as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 54, 207, 208, 429.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 660 to Senate Bill No. 128; Assembly Amendment No. 743 to Senate Bill No. 221.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 653 to Senate Bill No. 205; Assembly Amendment No. 702 to Senate Bill No. 210; Assembly Amendment No. 703 to Senate Bill No. 246; Assembly Amendment No. 712 to Senate Bill No. 300.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Breeden, Copening and Hardy as a Conference Committee concerning Senate Bill No. 193.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

## INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 54.

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

Motion carried.

Senate Bill No. 207.

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

Motion carried.

Senate Bill No. 208.

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

Motion carried.

Senate Bill No. 429.

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

Motion carried.

## GENERAL FILE AND THIRD READING

Assembly Bill No. 222.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 827.

AN ACT relating to education; creating the Teachers and Leaders Council of Nevada; prescribing the membership and duties of the Council; requiring the State Board of Education to establish a statewide performance evaluation system for teachers and administrators; revising provisions governing the policies for the evaluation of teachers and administrators; revising the designations required of the evaluations of teachers and administrators; **making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Sections 4-6** of this bill create the Teachers and Leaders Council of Nevada and prescribe the membership and duties of the Council. **Section 6** requires the Council to make recommendations to the State Board of Education for the establishment of a statewide performance evaluation system for teachers and administrators employed by school districts.

Existing law requires the automated system of accountability information for Nevada to track the achievement of pupils over time and to identify

which teachers and paraprofessionals are assigned to individual pupils. The information is required to be considered, but must not be the sole criterion, in evaluating the performance of or taking disciplinary action against an individual teacher, paraprofessional or other employee. (NRS 386.650) Existing law also requires the board of trustees of each school district to develop a policy for the evaluation of teachers and administrators pursuant to which the performance of an individual teacher or administrator is designated as “satisfactory” or “unsatisfactory.” (NRS 391.3125, 391.3127) **Section 7** of this bill requires the State Board of Education, based upon the recommendations of the Council, to establish a statewide performance evaluation system for teachers and administrators employed by school districts. Effective July 1, 2013, the statewide performance evaluation system will require the evaluation of an individual teacher or administrator as “highly effective,” “effective,” “minimally effective” or “ineffective.” Also effective July 1, 2013, **section 2** of this bill requires that certain information on pupil achievement which is maintained by the automated system of accountability information for Nevada account for 50 percent of the evaluations of teachers and administrators. **Sections 8.5 and 9.5** of this bill require the policies for the evaluations of teachers and administrators employed by school districts to comply with the statewide performance evaluation system established by the State Board.

Until the implementation of the statewide performance evaluation system, **sections 8 and 9** of this bill provide that the policies for the evaluations of teachers and administrators employed by school districts must require that certain information on pupil achievement which is maintained by the automated system of accountability information for Nevada account for a significant portion of the evaluation, as determined by the board of trustees.

**Section 10.5 of this bill makes an appropriation to the Department of Education for the costs associated with the Teachers and Leaders Council of Nevada created by section 5.**

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** NRS 386.650 is hereby amended to read as follows:

386.650 1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➡ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction. The information must ~~be considered,~~ **account for 50 percent**, but must not be used as the sole criterion, in evaluating the performance of or taking disciplinary action against an individual teacher, paraprofessional or other employee.

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of

plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2 and by each university school for profoundly gifted pupils;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data to the Department;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe the date by which each university school for profoundly gifted pupils shall report the data to the Department;

(g) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school and university school for profoundly gifted pupils located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians,

will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

**Sec. 3.** Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 7, inclusive, of this act.

**Sec. 4.** *As used in sections 5 and 6 of this act, "Council" means the Teachers and Leaders Council of Nevada created by section 5 of this act.*

**Sec. 5. 1.** *There is hereby created the Teachers and Leaders Council of Nevada consisting of the following 15 members:*

*(a) The Superintendent of Public Instruction, or his or her designee, who serves as an ex officio member of the Council.*

*(b) The Chancellor of the Nevada System of Higher Education, or his or her designee, who serves as an ex officio member of the Council.*

*(c) Four teachers in public schools appointed by the Governor from a list of nominees submitted by the Nevada State Education Association. The members appointed pursuant to this paragraph must represent the geographical diversity of the school districts in this State.*

*(d) Two administrators in public schools ~~and one superintendent of schools of a school district~~ appointed by the Governor from a list of nominees submitted by the Nevada Association of School Administrators ~~[-]~~ and one superintendent of schools of a school district appointed by the Governor from a list of nominees submitted by the Nevada Association of School Superintendents. The members appointed pursuant to this paragraph must represent the geographical diversity of the school districts in this State.*

*(e) Two persons who are members of boards of trustees of school districts and who are appointed by the Governor from a list of nominees submitted by the Nevada Association of School Boards.*

*(f) One representative of the regional training programs for the professional development of teachers and administrators created by NRS 391.512 appointed by the Governor from a list of nominees submitted by the Nevada Association of School Superintendents.*

*(g) One parent or legal guardian of a pupil enrolled in public school appointed by the Governor from a list of nominees submitted by the Nevada Parent Teacher Association.*



*(h) Two persons with expertise in the development of public policy relating to education appointed by the Superintendent of Public Instruction. The members appointed pursuant to this paragraph must not otherwise be eligible for appointment pursuant to paragraphs (a) to (g), inclusive.*

*2. After the initial terms, each appointed member of the Council serves a term of 3 years commencing on July 1 and may be reappointed to one additional 3-year term following his or her initial term. If any appointed member of the Council ceases to be qualified for the position to which he or she was appointed, the position shall be deemed vacant and the appointing authority shall appoint a replacement for the remainder of the unexpired term. A vacancy must be filled in the same manner as the original appointment.*

*3. The Council shall, at its first meeting and annually thereafter, elect a Chair from among its members.*

*4. The Council shall meet at least semiannually and may meet at other times upon the call of the Chair or a majority of the members of the Council. Nine members of the Council constitute a quorum, and a quorum may exercise all the power and authority conferred on the Council.*

*5. Members of the Council serve without compensation, except that for each day or portion of a day during which a member of the Council attends a meeting of the Council or is otherwise engaged in the business of the Council, the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

*6. A member of the Council who is a public employee must be granted administrative leave from the member's duties to engage in the business of the Council without loss of his or her regular compensation. Such leave does not reduce the amount of the member's other accrued leave.*

*7. The Department shall provide administrative support to the Council.*

*8. The Council may apply for and accept gifts, grants, donations and contributions from any source for the purpose of carrying out its duties pursuant to section 6 of this act.*

**Sec. 6. 1. The Council shall:**

*(a) Make recommendations to the State Board concerning the adoption of regulations for establishing a statewide performance evaluation system to ensure that teachers and administrators employed by school districts are:*

*(1) Evaluated using multiple, fair, timely, rigorous and valid methods, which includes evaluations based upon pupil achievement data as required by NRS 386.650 and section 7 of this act;*

*(2) Afforded a meaningful opportunity to improve their effectiveness through professional development that is linked to their evaluations; and*

*(3) Provided with the means to share effective educational methods with other teachers and administrators throughout this State.*

*(b) Develop and recommend to the State Board a plan, including duties and associated costs, for the development and implementation of the performance evaluation system by the Department and school districts.*

*(c) Consider the role of professional standards for teachers and administrators and, as it determines appropriate, develop a plan for recommending the adoption of such standards by the State Board.*

*2. The performance evaluation system recommended by the Council must ensure that:*

*(a) Data derived from the evaluations is used to create professional development programs that enhance the effectiveness of teachers and administrators; and*

*(b) A timeline is included for monitoring the performance evaluation system at least annually for quality, reliability, validity, fairness, consistency and objectivity.*

*3. The Council may establish such working groups, task forces and similar entities from within or outside its membership as necessary to address specific issues or otherwise to assist in its work.*

*4. The State Board shall consider the recommendations made by the Council pursuant to this section and shall adopt regulations establishing a statewide performance evaluation system as required by section 7 of this act.*

*Sec. 7. 1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to section 6 of this act, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance.*

*2. The statewide performance evaluation system must:*

*(a) Require that an employee's overall performance is determined to be:*

*(1) Highly effective;*

*(2) Effective;*

*(3) Minimally effective; or*

*(4) Ineffective.*

*(b) Include the criteria for making each designation identified in paragraph (a).*

*(c) Require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for 50 percent of the evaluation.*

*(d) Include an evaluation of whether the teacher or administrator employs practices and strategies to involve and engage the parents and families of pupils.*

**Sec. 8.** NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. ***The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board.*** The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. A conference and a written evaluation for a probationary employee must be concluded not later than:

- (a) December 1;
- (b) February 1; and
- (c) April 1,

↪ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.

4. Whenever an administrator charged with the evaluation of a probationary employee believes the employee will not be reemployed for the second year of the probationary period or the school year following the probationary period, the administrator shall bring the matter to the employee's attention in a written document which is separate from the evaluation not later than March 1 of the current school year. The notice must include the reasons for the potential decision not to reemploy or refer to the evaluation in which the reasons are stated. Such a notice is not required if the probationary employee has received a letter of admonition during the current school year.

5. Each postprobationary teacher must be evaluated at least once each year. An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 30 consecutive minutes.

6. The evaluation of a probationary teacher or a postprobationary teacher must include, without limitation:

- (a) An evaluation of the classroom management skills of the teacher;
- (b) A review of the lesson plans and the work log or grade book of pupils prepared by the teacher;
- (c) An evaluation of whether the curriculum taught by the teacher is aligned with the standards of content and performance established pursuant to NRS 389.520, as applicable for the grade level taught by the teacher;
- (d) An evaluation of whether the teacher is appropriately addressing the needs of the pupils in the classroom, including, without limitation, special educational needs, cultural and ethnic diversity, the needs of pupils enrolled in advanced courses of study and the needs of pupils who are limited English proficient;
- (e) If necessary, recommendations for improvements in the performance of the teacher;
- (f) A description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation; and
- (g) A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

7. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. Upon the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.

**Sec. 8.5.** NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must ~~set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS~~

~~386.650 account for a significant portion of the evaluation, as determined by the board.]~~ ***comply with the statewide performance evaluation system established by the State Board pursuant to section 7 of this act.*** The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. A conference and a written evaluation for a probationary employee must be concluded not later than:

- (a) December 1;
- (b) February 1; and
- (c) April 1,

↪ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.

4. Whenever an administrator charged with the evaluation of a probationary employee believes the employee will not be reemployed for the second year of the probationary period or the school year following the probationary period, the administrator shall bring the matter to the employee's attention in a written document which is separate from the evaluation not later than March 1 of the current school year. The notice must include the reasons for the potential decision not to reemploy or refer to the evaluation in which the reasons are stated. Such a notice is not required if the probationary employee has received a letter of admonition during the current school year.

5. Each postprobationary teacher must be evaluated at least once each year. An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 30 consecutive minutes.

6. The evaluation of a probationary teacher or a postprobationary teacher must include, without limitation:

- (a) An evaluation of the classroom management skills of the teacher;

(b) A review of the lesson plans and the work log or grade book of pupils prepared by the teacher;

(c) An evaluation of whether the curriculum taught by the teacher is aligned with the standards of content and performance established pursuant to NRS 389.520, as applicable for the grade level taught by the teacher;

(d) An evaluation of whether the teacher is appropriately addressing the needs of the pupils in the classroom, including, without limitation, special educational needs, cultural and ethnic diversity, the needs of pupils enrolled in advanced courses of study and the needs of pupils who are limited English proficient;

(e) *An evaluation of whether the teacher employs practices and strategies to involve and engage the parents and families of pupils in the classroom;*

(f) If necessary, recommendations for improvements in the performance of the teacher;

~~[(f)]~~ (g) A description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation; and

~~[(g)]~~ (h) A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

7. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. Upon the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.

**Sec. 9.** NRS 391.3127 is hereby amended to read as follows:

391.3127 1. Each board, following consultation with and involvement of elected representatives of administrative personnel or their designated representatives, shall develop an objective policy for the objective evaluation of administrators in narrative form. The policy must set forth a means according to which an administrator's overall performance may be determined to be satisfactory or unsatisfactory. ***The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board.*** The policy may include an evaluation by the administrator, superintendent, pupils or other administrators or any combination thereof. A copy of the policy adopted by the board must be filed with the Department and made available to the Commission.

2. Each administrator must be evaluated in writing at least once a year.

3. Before a superintendent transfers or assigns an administrator to another administrative position as part of an administrative reorganization, if the transfer or reassignment is to a position of lower rank, responsibility or pay, the superintendent shall give written notice of the proposed transfer or assignment to the administrator at least 30 days before the date on which it is to be effective. The administrator may appeal the decision of the superintendent to the board by requesting a hearing in writing to the president of the board within 5 days after receiving the notice from the superintendent. The board shall hear the matter within 10 days after the president receives the request, and shall render its decision within 5 days after the hearing. The decision of the board is final.

**Sec. 9.5.** NRS 391.3127 is hereby amended to read as follows:

391.3127 1. Each board, following consultation with and involvement of elected representatives of administrative personnel or their designated representatives, shall develop an objective policy for the objective evaluation of administrators in narrative form. The policy must ~~set forth a means according to which an administrator's overall performance may be determined to be satisfactory or unsatisfactory. The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board.~~ ***comply with the statewide performance evaluation system established by the State Board pursuant to section 7 of this act.*** The policy may include an evaluation by the administrator, superintendent, pupils or other administrators or any combination thereof. A copy of the policy adopted by the board must be filed with the Department and made available to the Commission.

2. Each administrator must be evaluated in writing at least once a year.

3. Before a superintendent transfers or assigns an administrator to another administrative position as part of an administrative reorganization, if the transfer or reassignment is to a position of lower rank, responsibility or pay, the superintendent shall give written notice of the proposed transfer or assignment to the administrator at least 30 days before the date on which it is to be effective. The administrator may appeal the decision of the superintendent to the board by requesting a hearing in writing to the president of the board within 5 days after receiving the notice from the superintendent. The board shall hear the matter within 10 days after the president receives the request, and shall render its decision within 5 days after the hearing. The decision of the board is final.

**Sec. 10.** NRS 391.3197 is hereby amended to read as follows:

391.3197 1. A probationary employee is employed on a contract basis for two 1-year periods and has no right to employment after either of the two probationary contract years.

2. The board shall notify each probationary employee in writing on or before May 1 of the first and second school years of the employee's probationary period, as appropriate, whether the employee is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. The employee must advise the board in writing on or before May 10 of the first or second year of the employee's probationary period, as appropriate, of the employee's acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify the employee in writing, in both the first and second years of the employee's probationary period, no later than 45 days before his or her last day of work for the year under his or her contract whether the employee is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. The employee must advise the board in writing within 10 days after the date of notification of his or her acceptance or rejection of reemployment for another year. Failure to advise the board of the employee's acceptance of reemployment constitutes rejection of the contract.

3. A probationary employee who completes a 2-year probationary period and receives a notice of reemployment from the school district in the second year of the employee's probationary period is entitled to be a postprobationary employee in the ensuing year of employment.

4. If a probationary employee receives notice pursuant to subsection 4 of NRS 391.3125 not later than March 1 of a potential decision not to reemploy him or her, the employee may request a supplemental evaluation by another administrator in the school district selected by the employee and the superintendent. If a school district has five or fewer administrators, the supplemental evaluator may be an administrator from another school district in this State. If a probationary employee has received during the first school year of the employee's probationary period three evaluations which state that the employee's overall performance has been ~~satisfactory,~~ **highly effective or effective**, the superintendent of schools of the school district or the superintendent's designee shall waive the second year of the employee's probationary period by expressly providing in writing on the final evaluation of the employee for the first probationary year that the second year of the employee's probationary period is waived. Such an employee is entitled to be a postprobationary employee in the ensuing year of employment.

5. If a probationary employee is notified that the employee will not be reemployed for the second year of the employee's probationary period or the ensuing school year, his or her employment ends on the last day of the current school year. The notice that the employee will not be reemployed must include a statement of the reasons for that decision.



6. A new employee or a postprobationary teacher who is employed as an administrator shall be deemed to be a probationary employee for the purposes of this section and must serve a 2-year probationary period as an administrator in accordance with the provisions of this section. If the administrator does not receive an ~~unsatisfactory~~ evaluation ***indicating that his or her performance is minimally effective or ineffective*** during the first year of probation, the superintendent or the superintendent's designee shall waive the second year of the administrator's probationary period. Such an administrator is entitled to be a postprobationary employee in the ensuing year of employment. If:

(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after either year of his or her probationary period; and

(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,

↪ the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.

7. An administrator who has completed his or her probationary period pursuant to subsection 6 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the additional probationary period, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment.

8. Before dismissal, the probationary employee is entitled to a hearing before a hearing officer which affords due process as set out in NRS 391.311 to 391.3196, inclusive.

**Sec. 10.5. 1. There are hereby appropriated from the State General Fund to the Department of Education the following sums for the costs associated with the Teachers and Leaders Council of Nevada created by section 5 of this act:**

**For the Fiscal Year 2011-2012** **\$24,000**

**For the Fiscal Year 2012-2013** **\$8,000**

**2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the**

**Department of Education or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 21, 2012, and September 20, 2013, respectively, by either the Department of Education or the entity to which the money from the appropriation was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 21, 2012, and September 20, 2013, respectively.**

**Sec. 11.** The Teachers and Leaders Council of Nevada created by section 5 of this act shall, not later than June 1, 2012, submit to the State Board of Education the recommendations of the Council for the adoption of regulations establishing a statewide performance evaluation system for teachers and administrators pursuant to section 7 of this act.

**Sec. 12.** On or before June 1, 2013, the State Board of Education shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to section 6 of this act, adopt regulations establishing a statewide performance evaluation system for teachers and administrators that complies with section 7 of this act.

**Sec. 13.** Each school district in this State shall, not later than the 2013-2014 school year, implement a performance evaluation policy for teachers and administrators that complies with the statewide performance evaluation system established by the State Board of Education pursuant to section 7 of this act.

**Sec. 14.** The appointed members of the Teachers and Leaders Council of Nevada created by section 5 of this act must be appointed to initial terms as follows:

1. The Governor shall appoint to the Council the members described in:
  - (a) Paragraph (c) of subsection 1 of section 5 of this act to initial terms of 2 years.
  - (b) Paragraphs (d) and (e) of subsection 1 of section 5 of this act to initial terms of 3 years.
  - (c) Paragraphs (f) and (g) of subsection 1 of section 5 of this act to initial terms of 1 year.
2. The Superintendent of Public Instruction shall appoint to the Council the members described in paragraph (h) of subsection 1 of section 5 of this act to initial terms of 3 years.

**Sec. 15.** 1. This section and sections 3 to 8, inclusive, 9, 10.5 and 11 to 14, inclusive, of this act become effective on July 1, 2011.

2. Sections 1, 2, 8.5, 9.5 and 10 of this act become effective on July 1, 2013.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Assembly Bill No. 497.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 830.

SUMMARY—Makes ~~for~~ supplemental ~~appropriation~~ **appropriations** to the ~~Real Estate Division of the~~ Department of Business and Industry ~~for an unanticipated shortfall in Fiscal Year 2010-2011.~~ (BDR S-1226)

AN ACT making a supplemental appropriation to the Real Estate Division of the Department of Business and Industry for an unanticipated shortfall in Fiscal Year 2010-2011; **making a supplemental appropriation to the Department of Business and Industry for costs associated with relocation of the Director's office;** and providing other matters properly relating thereto.

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

**Section 1.** There is hereby appropriated from the State General Fund to the Department of Business and Industry the sum of ~~(\$217,092)~~ **\$213,599** to cover an unanticipated shortfall in the Real Estate Division. This appropriation is supplemental to that made by section 24 of chapter 388, Statutes of Nevada 2009, at page 2111.

**Sec. 2. There is hereby appropriated from the State General Fund to the Department of Business and Industry the sum of \$6,157 for costs associated with the relocation of the Director's office in Carson City. This appropriation is supplemental to that made by section 24 of chapter 388, Statutes of Nevada 2009, at page 2111.**

~~{Sec. 2.}~~ **Sec. 3.** This act becomes effective upon passage and approval.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 511.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 785.

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 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 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. **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 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. **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 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 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 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.** (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 a driver's license endorsement for the operation of an autonomous vehicle on the highways of this State. The 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 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 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~~ board of county commissioners or the governing body of the city 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. 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.***

**Sec. 11.** NRS 484B.523 is hereby amended to read as follows:

484B.523 1. ~~When~~ ***Except as otherwise provided in section 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. 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 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. 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 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.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Assembly Bill No. 546.

Bill read third time.



The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 829.

AN ACT relating to children; making various changes to provisions governing early childhood care and education; providing for the establishment by statute of the Early Childhood Advisory Council; requiring certain training of persons who are employed in early childhood care; requiring annual reports concerning such training to be submitted to the Department of Education and the Legislative Committee on Education; requiring the Board for Child Care to adopt regulations establishing requirements for courses of training in child care for employees of a child care facility; **making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes various changes to the provisions governing early childhood care and education. The Nevada Early Childhood Advisory Council was created by an Executive Order of the Governor on September 11, 2009. By the terms of the Executive Order, the Council will cease to exist on July 31, 2011, if it is not continued by Executive Order. **Section 5** of this bill statutorily provides for the establishment of the Early Childhood Advisory Council by the Director of the Department of Health and Human Services. The statutory Council has substantially the same duties as the Council created by the Executive Order. **Section 13** of this bill provides that the Nevada Early Childhood Advisory Council created by the Governor shall be deemed to be the Council required to be established by the Director until such time as the Director revises the membership or duties of the Council. **Section 6** of this bill requires the Council, in consultation with the Department of Education, to establish goals for the training of persons who are employed in early childhood care in the Pre-Kindergarten Content Standards developed by the Department of Education, assist in developing standards and qualifications for such training, develop standards for professional development, create or adopt a model for highly effective teachers for use as a resource in early childhood education and study and develop recommendations for appropriate group sizes in early childhood education and care. **Section 7** of this bill requires the Department of Education to develop the training module that must be used in such training ~~and~~ **and authorizes the Department of Education to accept gifts, grants and donations to develop the training module. Section 12.2 of this bill makes an appropriation to the Department of Education to fund the development of the training module.** **Section 8** of this bill requires licensed child care facilities which receive certain government subsidies to ensure that each employee who provides child care services to children who are in early

childhood receives approved training in the Pre-Kindergarten Content Standards. **Section 9** of this bill requires the Council to submit an annual report to the Department of Education and the Legislative Committee on Education concerning such training. **Section 12** of this bill requires the Board for Child Care to adopt regulations establishing requirements for courses of training in child care for employees of a child care facility. The regulations must provide for the annual completion of not less than 24 hours of such training, at least 16 hours of which must be training relating to early childhood development and the Pre-Kindergarten Content Standards.

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

**Section 1.** Chapter 432A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

**Sec. 2.** *“Council” means the Early Childhood Advisory Council established within the Department pursuant to section 5 of this act.*

**Sec. 3.** *“Nevada Registry” means the organization that operates the statewide system of career development and recognition created to:*

- 1. Acknowledge and encourage professional achievement in the early childhood care and education workforce in this State;*
- 2. Establish a professional development system in this State in the field of early childhood care and education;*
- 3. Approve and track all informal training in the field of early childhood care and education in this State; and*
- 4. Act as a statewide clearinghouse for information concerning early childhood care and education.*

**Sec. 4.** *“Pre-Kindergarten Content Standards” means the content standards developed by the Department of Education in conjunction with various other state agencies which describe appropriate outcomes for children who are completing their preschool development.*

**Sec. 5.** *The Director shall establish the Early Childhood Advisory Council within the Department and shall appoint such members to the Council as the Director determines appropriate. The Council shall:*

- 1. Work to strengthen state-level coordination and collaboration among the various sectors and settings of early childhood programs in this State.*
- 2. Conduct periodic statewide assessments of needs relating to the quality and availability of programs and services for children who are in early childhood and identify opportunities for and barriers to coordination and collaboration among existing federally-funded and state-funded early childhood programs.*
- 3. Develop recommendations for:*

*(a) Increasing the overall participation of children in existing federal, state and local programs for child care and early childhood education, including, without limitation, providing information on such programs to underrepresented and special populations;*

*(b) The establishment or improvement of core elements of the early childhood system in this State, including, without limitation, a statewide unified system for collecting data relating to early childhood programs;*

*(c) A statewide professional development system for teachers engaged in early childhood education; and*

*(d) The establishment of statewide standards for early childhood education in this State.*

*4. Assess the capacity and effectiveness of institutions of higher education in this State in developing teachers in the field of early childhood education.*

*5. Perform such other duties relating to early childhood education and programs as designated by the Director.*

*Sec. 6. The Council, in consultation with the Department of Education, shall, to the extent practicable:*

*1. Establish goals for the training of all persons who are employed in early childhood care in the Pre-Kindergarten Content Standards;*

*2. Assist the Nevada Registry or its successor organization, or any other agency designated by the Director of the Department of Health and Human Services, in developing the qualifications required of persons who conduct training in the Pre-Kindergarten Content Standards and the approval of such training;*

*3. Develop standards for professional development in the Pre-Kindergarten Content Standards;*

*4. Create or adopt a model for highly effective teachers that can be used as a resource in early childhood education for teachers and caregivers of children; and*

*5. Study and develop recommendations for appropriate group sizes in early childhood education and care.*

*Sec. 7. 1. The Department of Education shall, in consultation with persons who are qualified to conduct training in the Pre-Kindergarten Content Standards, develop the training module that must be used in such training.*

*2. To the extent that money is available to pay for the training, the Department of Education shall arrange to have the training provided at no or reduced cost to the employees of child care facilities.*

*3. The Department of Education may accept gifts, grants and donations from any source for assistance in developing the training module required by this section.*

**Sec. 8.** *Each child care facility which is licensed pursuant to this chapter or by a city or county or which receives reimbursement from the Program for Child Care and Development administered by the Division of Welfare and Supportive Services of the Department pursuant to chapter 422A of NRS shall ensure that, in accordance with the regulations adopted by the Board pursuant to paragraph (c) of subsection 1 of NRS 432A.077, each employee of the child care facility who provides child care services in the child care facility to children who are in early childhood receives training which is approved by the Nevada Registry or its successor organization, or any other agency designated by the Director, in the Pre-Kindergarten Content Standards.*

**Sec. 9.** *The Council shall submit annually to the Department of Education and the Legislative Committee on Education a report concerning:*

*1. The number of persons employed in early childhood care in this State, categorized by types of early childhood certification held, if any;*

*2. The status of the goals for the training of all such persons in the Pre-Kindergarten Content Standards; and*

*3. The money spent on the training of all such persons in the Pre-Kindergarten Content Standards.*

**Sec. 10.** NRS 432A.020 is hereby amended to read as follows:

432A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432A.0205 to 432A.028, inclusive, **and sections 2, 3 and 4 of this act** have the meanings ascribed to them in those sections.

**Sec. 11.** NRS 432A.035 is hereby amended to read as follows:

432A.035 ~~[The]~~ **Except as otherwise provided in section 8 of this act,** the provisions of this chapter do not apply to the Program for Child Care and Development administered by the Division of Welfare and Supportive Services of the Department pursuant to chapter 422A of NRS.

**Sec. 12.** NRS 432A.077 is hereby amended to read as follows:

432A.077 1. The Board shall adopt:

(a) Licensing standards for child care facilities.

(b) In consultation with the State Fire Marshal, plans and requirements to ensure that each child care facility and its staff is prepared to respond to emergencies, including, without limitation:

(1) The conducting of fire drills on a monthly basis;

(2) The adoption of plans to respond to natural disasters and emergencies other than those involving fire; and

(3) The adoption of plans to provide for evacuation of child care facilities in an emergency.

(c) *Regulations establishing the requirements for courses of training in child care for employees of a child care facility. The regulations must provide for continuing training in child care which must include, without limitation, the annual completion by each employee of not less than 24 hours of such training, not less than 16 hours of which must be training relating to early childhood development and the Pre-Kindergarten Content Standards which is approved by the Nevada Registry or its successor organization, or any other agency designated by the Director.*

(d) Such other regulations as it deems necessary or convenient to carry out the provisions of this chapter.

2. The Board shall require that the practices and policies of each child care facility provide adequately for the protection of the health and safety and the physical, moral and mental well-being of each child accommodated in the facility.

3. If the Board finds that the practices and policies of a child care facility are substantially equivalent to those required by the Board in its regulations, it may waive compliance with a particular standard or other regulation by that facility.

**Sec. 12.2. 1. There is hereby appropriated from the State General Fund to the Department of Education the sum of \$10,000 to fund the development of the training module that must be used to conduct training in Pre-Kindergarten Content Standards pursuant to section 7 of this act.**

**2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2013, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 20, 2013, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2013.**

**Sec. 12.5.** The Board for Child Care shall, on or before July 1, 2012, adopt the regulations required by paragraph (c) of subsection 1 of NRS 432A.077, as amended by section 12 of this act.

**Sec. 13.** Notwithstanding the provisions of section 5 of this act, the Nevada Early Childhood Advisory Council created by the Governor by Executive Order on September 11, 2009, shall be deemed to be the Early Childhood Advisory Council required to be established by the Director of the Department of Health and Human Services pursuant to section 5 of this act until such time as the Director revises the membership or duties of the Council.

**Sec. 14.** 1. This section and sections 5 and 13 of this act become effective upon passage and approval.

2. Sections 1 to 4, inclusive, and 6, 7, 9, 10, 12, **12.2** and 12.5 of this act become effective on July 1, 2011.

3. Sections 8 and 11 of this act become effective on July 1, 2012.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 32.

Bill read third time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 665.

AN ACT relating to the equalization of property valuations; extending under certain circumstances the deadline for appeals to county boards of equalization; extending certain deadlines for the State Board of Equalization to conclude the business of equalization; requiring the State Board to post a schedule of certain meetings on the Internet website of the Department of Taxation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

A taxpayer who desires to appeal the valuation of his or her property to a county board of equalization must file the appeal on or before January 15. (NRS 361.340) **Section 1** of this bill extends that deadline to the next business day if January 15 falls on a Saturday, Sunday or legal holiday.

The State Board of Equalization hears appeals from the actions of the county boards of equalization and is required to equalize property valuations in the State by reviewing the tax rolls of the various counties and raising or lowering assessed property values, if appropriate, to ensure a uniform and equal rate of assessment and taxation in this State. (NRS 361.395, 361.400) Existing law requires the State Board to conclude the business of equalization on or before April 15 on cases that in its opinion have a substantial effect on tax revenues, while cases having a less substantive effect on tax revenues may be heard at additional meetings before October 1. (NRS 361.380) **Section 3** of this bill instead requires that if a proposed equalization affects local governmental entities in more than one county and is likely to have a substantial effect on tax revenues, the State Board must notify each affected local governmental entity of the proposed equalization on or before April 30. In addition, **sections 2 and 3** of this bill extend the deadline for cases which have a less substantive effect, or those arising from decisions made in individual cases, to November 1. **Section 3** also requires the State Board to post a schedule of its meetings concerning such equalization on the Department of Taxation's Internet website ~~and removes the requirement that~~

~~the State Board publish~~ **in addition to publishing** notice of meetings to be held in locations other than Carson City in a newspaper in the county where the meetings are to be held.

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

**Section 1.** NRS 361.340 is hereby amended to read as follows:

361.340 1. Except as otherwise provided in subsection 2, the board of equalization of each county consists of:

(a) Five members, only two of whom may be elected public officers, in counties having a population of 15,000 or more; and

(b) Three members, only one of whom may be an elected public officer, in counties having a population of less than 15,000.

2. The board of county commissioners may by resolution provide for an additional panel of like composition to be added to the board of equalization to serve for a designated fiscal year. The board of county commissioners may also appoint alternate members to either panel.

3. A district attorney, county treasurer or county assessor or any of their deputies or employees may not be appointed to the county board of equalization.

4. The chair of the board of county commissioners shall nominate persons to serve on the county board of equalization who are sufficiently experienced in business generally to be able to bring knowledge and sound judgment to the deliberations of the board or who are elected public officers. The nominees must be appointed upon a majority vote of the board of county commissioners. The chair of the board of county commissioners shall designate one of the appointees to serve as chair of the county board of equalization.

5. Except as otherwise provided in this subsection, the term of each member is 4 years and any vacancy must be filled by appointment for the unexpired term. The term of any elected public officer expires upon the expiration of the term of his or her elected office.

6. The county clerk or his or her designated deputy is the clerk of each panel of the county board of equalization.

7. Any member of the county board of equalization may be removed by the board of county commissioners if, in its opinion, the member is guilty of malfeasance in office or neglect of duty.

8. The members of the county board of equalization are entitled to receive per diem allowance and travel expenses as provided for state officers and employees. The board of county commissioners of any county may by resolution provide for compensation to members of the board of equalization in its county who are not elected public officers as it deems adequate for time

actually spent on the work of the board of equalization. In no event may the rate of compensation established by a board of county commissioners exceed \$125 per day.

9. A majority of the members of the county board of equalization constitutes a quorum, and a majority of the board determines the action of the board.

10. A county board of equalization shall comply with any applicable regulation adopted by the Nevada Tax Commission.

11. The county board of equalization of each county shall hold such number of meetings as may be necessary to care for the business of equalization presented to it. Every appeal to the county board of equalization must be filed not later than January 15. ***If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.*** Each county board shall cause to be published, in a newspaper of general circulation published in that county, a schedule of dates, times and places of the board meetings at least 5 days before the first meeting. The county board of equalization shall conclude the business of equalization on or before the last day of February of each year except as to matters remanded by the State Board of Equalization. The State Board of Equalization may establish procedures for the county boards, including setting the period for hearing appeals and for setting aside time to allow the county board to review and make final determinations. The district attorney or his or her deputy shall be present at all meetings of the county board of equalization to explain the law and the board's authority.

12. The county assessor or his or her deputy shall attend all meetings of each panel of the county board of equalization.

**Sec. 2.** NRS 361.360 is hereby amended to read as follows:

361.360 1. Any taxpayer aggrieved at the action of the county board of equalization in equalizing, or failing to equalize, the value of his or her property, or property of others, or a county assessor, may file an appeal with the State Board of Equalization on or before March 10 and present to the State Board of Equalization the matters complained of at one of its sessions. If March 10 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. All such appeals must be presented upon the same facts and evidence as were submitted to the county board of equalization in the first instance, unless there is discovered new evidence pertaining to the matter which could not, by due diligence, have been discovered before the final adjournment of the county board of equalization. The new evidence must be submitted in writing to the State Board of Equalization and served upon the county assessor not less than 7 days before the hearing.



3. Any taxpayer whose real or personal property placed on the unsecured tax roll was assessed after December 15 but before or on the following April 30 may likewise protest to the State Board of Equalization. Every such appeal must be filed on or before May 15. If May 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day. A meeting must be held before May 31 to hear those protests that in the opinion of the State Board of Equalization may have a substantial effect on tax revenues. One or more meetings may be held at any time and place in the State before ~~October~~ **November** 1 to hear all other protests.

4. The State Board of Equalization may not reduce the assessment of the county assessor if:

(a) The appeal involves an assessment on property which the taxpayer has refused or, without good cause, has neglected to include in the list required of the taxpayer pursuant to NRS 361.265 or if the taxpayer has refused or, without good cause, has neglected to provide the list to the county assessor; or

(b) The taxpayer has, without good cause, refused entry to the assessor for the purpose of conducting the physical examination authorized by NRS 361.260.

5. Any change made in an assessment appealed to the State Board of Equalization is effective only for the fiscal year for which the assessment was made. The county assessor shall review each such change and maintain or remove the change as circumstances warrant for the next fiscal year.

6. If the State Board of Equalization determines that the record of a case on appeal from the county board of equalization is inadequate because of an act or omission of the county assessor, the district attorney or the county board of equalization, the State Board of Equalization may remand the case to the county board of equalization with directions to develop an adequate record within 30 days after the remand. The directions must indicate specifically the inadequacies to be remedied. If the State Board of Equalization determines that the record returned from the county board of equalization after remand is still inadequate, the State Board of Equalization may hold a hearing anew on the appellant's complaint or it may, if necessary, contract with an appropriate person to hear the matter, develop an adequate record in the case and submit recommendations to the State Board. The cost of the contract and all costs, including attorney's fees, to the State or the appellant necessary to remedy the inadequate record on appeal are a charge against the county.

**Sec. 3.** NRS 361.380 is hereby amended to read as follows:

361.380 1. Except as otherwise provided in subsection 3, annually, the State Board of Equalization shall convene on the fourth Monday in March in Carson City, Nevada, and shall hold such number of meetings as may be

necessary to care for the business of equalization presented to it. ~~{The}~~ ***If a proposed equalization affects local governmental entities in more than one county and the equalization, in the opinion of the State Board of Equalization, is likely to have a substantial effect on tax revenues, the*** State Board of Equalization shall ~~{conclude the business}~~ ***notify each affected local governmental entity of the proposed equalization on cases that in its opinion have a substantial effect on tax revenues on*** or before April ~~{15. Cases having less than a substantial effect on tax revenues}~~ ***30. Cases*** may be heard at additional meetings which may be held at any time and place in the state before ~~{October}~~ ***November 1.***

2. The publication in the statutes of the foregoing time, place and purpose of each regular session of the State Board of Equalization is notice of such sessions, or if it so elects, the State Board of Equalization may cause published notices of such regular sessions to be made in the press, or may notify parties in interest by letter or otherwise.

3. The State Board of Equalization may designate some place other than Carson City, Nevada, for any of the meetings specified in subsection 1. If such other place is so designated, notice thereof must be given by publication of a notice once a week for 2 consecutive weeks in some newspaper of general circulation in the county in which such meeting or meetings are to be held. ~~{In addition to any other notice required by law, the}~~ ***The State Board of Equalization must also post a schedule of each such meeting on the Internet website maintained by the Department.***

**Sec. 4.** NRS 361.405 is hereby amended to read as follows:

361.405 1. The Secretary of the State Board of Equalization forthwith shall certify any change made by the Board in the assessed valuation of any property in whole or in part to the county auditor of the county where the property is assessed, and whenever the valuation of any property is raised, the Secretary of the State Board of Equalization shall forward by certified mail to the property owner or owners affected, notice of the increased valuation.

2. As soon as changes resulting from cases having a substantial effect on tax revenues have been certified to the county auditor by the Secretary of the State Board of Equalization, the county auditor shall:

(a) Enter all such changes and the value of any construction work in progress and net proceeds of minerals which were certified to him or her by the Department, on the assessment roll before the delivery thereof to the tax receiver.

(b) Add up the valuations and enter the total valuation of each kind of property and the total valuation of all property on the assessment roll.

(c) Certify the results to the board of county commissioners and the Department. ~~{on or before April 15 of each year.}~~

3. The board of county commissioners shall not levy a tax on the net proceeds of minerals added to the assessed valuation pursuant to paragraph (a) of subsection 2, but, except as otherwise provided by specific statute, the net proceeds of minerals must be included in the assessed valuation of the taxable property of the county and all local governments in the county for the determination of the rate of tax and all other purposes for which assessed valuation is used.

4. As soon as changes resulting from cases having less than a substantial effect on tax revenue have been certified to the county tax receiver by the Secretary of the State Board of Equalization, the county tax receiver shall adjust the assessment roll or the tax statement or make a tax refund, as directed by the State Board of Equalization.

**Sec. 5.** This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 34.

Bill read third time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 666.

AN ACT relating to taxation; revising the provisions governing the administration of sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement, apply the taxes to retailers whose activities have a sufficient nexus with this State and provide for the rebuttal of certain presumptions regarding the application of use taxes to property delivered outside of or brought into this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the administration of sales and use taxes in this State pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 360B, 372 and 374 of NRS) Under existing law, the Legislature has found and declared that this State should enter into an interstate agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and types of commerce. (NRS 360B.020) Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions reasonably required to implement the provisions of the Agreement. (NRS 360B.110)

This bill carries out various requirements of the Streamlined Sales and Use Tax Agreement. **Sections 2 and 26** of this bill replace superseded

requirements for purchases of direct mail with new requirements regarding the sourcing of those transactions to various jurisdictions and the respective responsibilities of sellers and purchasers for the collection, reporting and payment of the applicable taxes. **Section 3** of this bill sets forth a new requirement regarding the registration of certain sellers who anticipate making no sales into certain states. **Sections 3, 14 and 23** of this bill carry out a new requirement to allow the electronic filing of simplified tax returns. **Sections 4 and 7** of this bill carry out a recent amendment to the Agreement governing the taxation of delivery charges. **Section 4.5** of this bill carries out a recent amendment to the Agreement regarding the due dates for tax returns and payments. **Sections 13 and 22** of this bill set forth new requirements regarding the liability of a seller for accepting certain certificates of exemption which indicate that the claimed exemption is not available. **Sections 5 and 6** of this bill delete certain provisions of the Agreement that do not apply in this State. **Sections 9, 10, 18 and 19** of this bill delete a requirement for good faith which is not allowed by the Agreement.

Under existing law, the Commerce Clause of the United States Constitution prohibits a state from requiring a retailer to collect sales and use taxes unless the activities of the retailer have a substantial nexus with the taxing state. (*Quill Corp. v. North Dakota*, 504 U.S. 298, 112 S.Ct. 1904 (1992)) **Sections 8 and 17** of this bill apply the sales and use taxes imposed in this State to every retailer whose activities have such a nexus.

Existing law creates various presumptions regarding the application of the use taxes imposed in this State to property which is delivered outside of this State to a purchaser or brought into this State by a purchaser. (NRS 372.250, 372.255, 372.258, 374.255, 374.260, 374.263) **Sections 11, 12, 20, 21 and 26** of this bill revise that law to specify the methods for controverting a presumption that those taxes apply.

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

**Section 1.** NRS 360.299 is hereby amended to read as follows:

360.299 1. In determining the amount of:

(a) Sales tax due on a sale at retail, the rate of tax used must be the sum of the rates of all taxes imposed upon sales at retail in:

(1) The county determined pursuant to the provisions of NRS 360B.350 to 360B.375, inclusive ~~††~~, **or section 2 of this act**; or

(2) If those provisions do not apply to the sale, the county in which the property is or will be delivered to the purchaser or the agent or designee of the purchaser.

(b) Use tax due on the purchase of tangible personal property for use, storage or other consumption in this state, the rate of tax used must be the

sum of the rates of all taxes imposed upon the use, storage or other consumption of property in:

(1) The county determined pursuant to the provisions of NRS 360B.350 to 360B.375, inclusive ~~to~~, ***or section 2 of this act***; or

(2) If those provisions do not apply to the purchase, the county in which the property is first used, stored or consumed.

2. In determining the amount of taxes due pursuant to subsection 1:

(a) The amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.

(b) A retailer may compute the amount due on a transaction on the basis of each item involved in the transaction or a single invoice for the entire transaction.

3. On or before January 1 of each year, the Department shall transmit to each retailer to whom a permit has been issued a notice which contains the provisions of subsections 1 and 2 and NRS 372.365.

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

***1. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:***

***(a) A purchaser of advertising and promotional direct mail may provide the seller with:***

***(1) Documentation of the direct pay permit of the purchaser issued pursuant NRS 360B.260;***

***(2) A certificate or written statement, in a form approved by the Department in accordance with the provisions of the Agreement, claiming the direct mail; or***

***(3) An informational statement of the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients.***

***(b) If the purchaser provides the documentation, certificate or statement pursuant to subparagraph (1) or (2) of paragraph (a), the sale shall be deemed to take place in the jurisdictions to which the advertising and promotional direct mail is to be delivered to the recipients and:***

***(1) If the seller does not maintain a place of business in this State:***

***(I) The purchaser shall report and pay any applicable sales or use taxes due; and***

***(II) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the advertising and promotional direct mail to which the documentation, certificate or statement applies; or***

***(2) If the seller maintains a place of business in this State:***

*(I) The seller shall collect and remit any applicable sales or use taxes due in this State;*

*(II) The purchaser shall report and pay any applicable sales or use taxes due in any other state; and*

*(III) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the advertising and promotional direct mail to which the documentation, certificate or statement applies which are due in any other state.*

*(c) If the purchaser provides the informational statement pursuant to subparagraph (3) of paragraph (a):*

*(1) The sale shall be deemed to take place in the jurisdictions to which the advertising and promotional direct mail is to be delivered;*

*(2) The seller shall collect and remit any applicable sales or use taxes due to those jurisdictions; and*

*(3) If the seller complies with subparagraph (2) in accordance with the delivery information provided by the purchaser, the seller, in the absence of bad faith, is relieved of any further obligation to collect any additional sales or use taxes on the sale.*

*(d) If the purchaser does not provide the seller with any of the items listed in paragraph (a), the sale shall be deemed to take place at the location described in subsection 5 of NRS 360B.360. The state to which the advertising and promotional direct mail is delivered may disallow credit for any sales or use taxes paid in accordance with this paragraph.*

*2. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:*

*(a) Except as otherwise provided in this subsection, the sale of other direct mail shall be deemed to take place at the location described in subsection 3 of NRS 360B.360.*

*(b) A purchaser of other direct mail may provide the seller with:*

*(1) Documentation of the direct pay permit of the purchaser issued pursuant NRS 360B.260; or*

*(2) A certificate or written statement, in a form approved by the Department in accordance with the provisions of the Agreement, claiming the direct mail.*

*(c) If the purchaser provides the documentation, certificate or statement pursuant to paragraph (b), the sale shall be deemed to take place in the jurisdictions to which the other direct mail is to be delivered to the recipients and:*

*(1) If the seller does not maintain a place of business in this State:*

*(I) The purchaser shall report and pay any applicable sales or use taxes due; and*

*(II) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the other direct mail to which the documentation, certificate or statement applies; or*

*(2) If the seller maintains a place of business in this State:*

*(I) The seller shall collect and remit any applicable sales or use taxes due in this State;*

*(II) The purchaser shall report and pay any applicable sales or use taxes due in any other state; and*

*(III) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the other direct mail to which the documentation, certificate or statement applies which are due in any other state.*

*3. This section does not apply to any transaction that includes the development of billing information or the provision of any data processing service that is more than incidental, regardless of whether any advertising and promotional direct mail is included in the same mailing.*

*4. If a transaction is a bundled transaction, as defined by a regulation of the Department in accordance with the provisions of the Agreement, that includes advertising and promotional direct mail, this section applies only if the primary purpose of the transaction is the sale of products that meet the definition set forth in paragraph (a) of subsection 6.*

*5. The provisions of this section do not limit any purchaser's:*

*(a) Liability for any sales or use taxes to any states to which the direct mail is delivered;*

*(b) Rights under local, state, federal or constitutional law, to a credit for sales or use taxes due and paid to other jurisdictions; or*

*(c) Right to a refund of any sales or use taxes overpaid to any jurisdiction.*

*6. As used in this section:*

*(a) "Advertising and promotional direct mail" means direct mail, the primary purpose of which is to attract public attention to a product, person, business or organization, or to attempt to sell, popularize or secure financial support for a product, person, business or organization. As used in this paragraph, "product" means tangible personal property, a product transferred electronically or a service.*

*(b) "Direct mail" means printed material delivered or distributed by the United States Postal Service or another delivery service to a mass audience or to addresses contained on a mailing list provided by a purchaser or at the direction of a purchaser when the cost of the items purchased is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the seller of the*

*direct mail for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.*

*(c) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether any advertising and promotional direct mail is included in the same mailing. The term:*

*(1) Includes, but is not limited to:*

*(I) Transactional direct mail that contains personal information specific to the addressee, including, but not limited to, invoices, bills, statements of account and payroll advices;*

*(II) Any legally required mailings, including, but not limited to, privacy notices, tax reports and stockholder reports; and*

*(III) Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees or agents, including, but not limited to, newsletters and informational pieces; and*

*(2) Does not include the development of billing information or the provision of any data processing service that is more than incidental.*

**Sec. 3.** NRS 360B.200 is hereby amended to read as follows:

360B.200 1. The Department shall, in cooperation with any other states that are members of the Agreement, establish and maintain a central, electronic registration system that allows a seller to register to collect and remit the sales and use taxes imposed in this State and in the other states that are members of the Agreement.

2. A seller who registers pursuant to this section agrees to collect and remit sales and use taxes in accordance with the provisions of this chapter, the regulations of the Department and the applicable law of each state that is a member of the Agreement, including any state that becomes a member of the Agreement after the registration of the seller pursuant to this section. The cancellation or revocation of the registration of a seller pursuant to this section, the withdrawal of a state from the Agreement or the revocation of the Agreement does not relieve a seller from liability pursuant to this subsection to remit any taxes previously or subsequently collected on behalf of a state.

3. When registering pursuant to this section, a seller may:

(a) Elect to use a certified service provider as its agent to perform all the functions of the seller relating to sales and use taxes, other than the obligation of the seller to remit the taxes on its own purchases;

(b) Elect to use a certified automated system to calculate the amount of sales or use taxes due on its sales transactions;

(c) Under such conditions as the Department deems appropriate in accordance with the Agreement, elect to use its own proprietary automated system to calculate the amount of sales or use taxes due on its sales transactions; or



(d) Elect to use any other method authorized by the Department for performing the functions of the seller relating to sales and use taxes.

4. *A seller who registers pursuant to this section and does not make the election allowed pursuant to paragraph (a) of subsection 3 may elect to be registered in any state that:*

*(a) Is a member of the Agreement at the time of that registration, as a seller who anticipates making no sales into that state if the seller has not had any sales into that state for the preceding 12 months; and*

*(b) Becomes a member of the Agreement after that registration, as a seller who anticipates making no sales into that state.*

5. A seller who registers pursuant to this section agrees to submit its sales and use tax returns, and to remit any sales and use taxes due, to the Department at such times and in such a manner and format as the Department prescribes by regulation. Those regulations must:

(a) Require from each seller who registers pursuant to this section:

(1) Only ~~one~~ **a single** tax return for each taxing period for all the sales and use taxes collected on behalf of this State and each local government in this State; and

(2) Only one remittance of taxes for each tax return, except that the Department may require additional remittances of taxes if the seller:

(I) Collects more than \$30,000 in sales and use taxes on behalf of this State and the local governments in this State during the preceding calendar year;

(II) Is allowed to determine the amount of any additional remittance by a method of calculation instead of by the actual amount collected; and

(III) Is not required to file any tax returns in addition to those otherwise required in accordance with this subsection.

(b) Allow any seller who registers pursuant to this section ~~and makes an election pursuant to paragraph (a), (b) or (c) of subsection 3]~~ to submit tax returns **electronically** in a simplified format . ~~{that does not include any more data fields than are permitted in accordance with the Agreement.}~~

(c) Allow any seller who registers pursuant to this section, does not maintain a place of business in this State and has not made an election pursuant to paragraph (a), (b) or (c) of subsection 3, to file tax returns at a frequency that does not exceed once per year unless the seller accumulates more than \$1,000 in the collection of sales and use taxes on behalf of this State and the local governments in this State.

(d) Provide an alternative method for a seller who registers pursuant to this section to make tax payments the same day as the seller intends if an electronic transfer of money fails.

(e) Require any data that accompanies the remittance of a tax payment by or on behalf of a seller who registers pursuant to this section to be formatted

using uniform codes for the type of tax and payment in accordance with the Agreement.

~~{5-}~~ 6. The registration of a seller and the collection and remission of sales and use taxes pursuant to this section may not be considered as a factor in determining whether a seller has a nexus with this State for the purposes of determining the liability of the seller to pay any tax imposed by this State.

**Sec. 4.** NRS 360B.290 is hereby amended to read as follows:

360B.290 Any invoice, billing or other document given to a purchaser that indicates the sales price for which tangible personal property is sold ~~{must}~~ :

1. *May* state separately any amount received by the seller for ~~{-~~

~~1.-Any}~~ *any* transportation, shipping or postage charges for the delivery of the property to a location designated by the purchaser ~~{-}~~ ; *and*

2. *Must state separately any amount received by the seller for:*

(a) Any installation charges for the property;

~~{3-}~~ (b) Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;

~~{4-}~~ (c) Any interest, financing and carrying charges from credit extended on the sale; and

~~{5-}~~ (d) Any taxes legally imposed directly on the consumer.

**Sec. 4.5.** NRS 360B.300 is hereby amended to read as follows:

360B.300 Notwithstanding the provisions of any other specific statute ~~{-~~ ~~{if}~~ :

1. *If* any sales or use tax is due and payable on ~~{a}~~ :

(a) *A* Saturday, Sunday or legal holiday, the tax may be paid on the next succeeding business day ~~{-}~~ ; *or*

(b) *A day on which a Federal Reserve bank is closed and, as a result of that closure, the taxpayer is not able to remit the tax electronically in accordance with the regulations adopted by the Department pursuant to NRS 360.092, the tax may be paid on the next succeeding day on which the Federal Reserve bank is open.*

2. *If any sales or use tax return is:*

(a) *Due on a Saturday, Sunday or legal holiday, the return may be filed on the next succeeding business day; or*

(b) *Required to be filed in conjunction with a remittance of the tax and paragraph (b) of subsection 1 applies to that remittance, the return may be filed on the same day as the tax may be paid in accordance with that paragraph.*

**Sec. 5.** NRS 360B.350 is hereby amended to read as follows:

360B.350 As used in NRS 360B.350 to 360B.375, inclusive:

1. “Receive” means taking possession of ~~for making the first use of~~ tangible personal property . ~~[-, whichever occurs first.]~~ The term does not include possession by a shipping company on behalf of a purchaser.

2. “Transportation equipment” means:

(a) Locomotives and railcars used for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors having a manufacturer’s gross vehicle weight rating of more than 10,000 pounds, and trailers, semitrailers and passenger buses that are:

(1) Registered pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or

(2) Operated under the authority of a carrier who is authorized by the Federal Government to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft operated by an air carrier who is authorized by the Federal Government or a foreign government to engage in the carriage of persons or property in interstate or foreign commerce.

(d) Containers designed for use on and component parts attached or secured to any of the items described in paragraph (a), (b) or (c).

**Sec. 5.5.** NRS 360B.355 is hereby amended to read as follows:

360B.355 1. Except as otherwise provided in this section ~~[-]~~ **and section 2 of this act**, for the purpose of determining the liability of a seller for sales and use taxes, a retail sale shall be deemed to take place at the location determined pursuant to NRS 360B.350 to 360B.375, inclusive.

2. NRS 360B.350 to 360B.375, inclusive, do not:

(a) Affect any liability of a purchaser or lessee for a use tax.

(b) Apply to:

(1) The retail sale or transfer of watercraft, modular homes, manufactured homes or mobile homes.

(2) The retail sale, other than the lease or rental, of motor vehicles, trailers, semitrailers or aircraft that do not constitute transportation equipment.

**Sec. 6.** NRS 360B.360 is hereby amended to read as follows:

360B.360 Except as otherwise provided in NRS 360B.350 to 360B.375, inclusive, the retail sale, excluding the lease or rental, of tangible personal property shall be deemed to take place:

1. If the property is received by the purchaser at a place of business of the seller, at that place of business.

2. If the property is not received by the purchaser at a place of business of the seller:

(a) At the location indicated to the seller pursuant to any instructions provided for the delivery of the property to the purchaser or to another recipient who is designated by the purchaser as his or her donee; or

(b) If no such instructions are provided and if known by the seller, at the location where the purchaser or another recipient who is designated by the purchaser as his or her donee, receives the property.

3. If subsections 1 and 2 do not apply, at the address of the purchaser indicated in the business records of the seller that are maintained in the ordinary course of the seller's business, unless the use of that address would constitute bad faith.

4. If subsections 1, 2 and 3 do not apply, at the address of the purchaser obtained during the consummation of the sale, including, if no other address is available, the address of the purchaser's instrument of payment, unless the use of an address pursuant to this subsection would constitute bad faith.

5. In all other circumstances, at the address from which the property was shipped. ~~For, if it was delivered electronically, at the address from which it was first available for transmission by the seller.~~

**Sec. 7.** NRS 360B.480 is hereby amended to read as follows:

360B.480 1. "Sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:

(a) The seller's cost of the property sold;

(b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges which are not stated separately pursuant to **subsection 1 of** NRS 360B.290 and excluding any installation charges which are stated separately pursuant to **subsection 2 of** NRS 360B.290; and

(d) Except as otherwise provided in subsection 2, any credit for any trade-in.

2. The term does not include:

(a) Any delivery charges which are stated separately pursuant to **subsection 1 of** NRS 360B.290;

(b) Any installation charges which are stated separately pursuant to **subsection 2 of** NRS 360B.290;

(c) Any credit for any trade-in which is:

(1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and

(2) Stated separately pursuant to **subsection 2 of** NRS 360B.290;

(d) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;

(e) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to **subsection 2 of** NRS 360B.290; and

(f) Any taxes legally imposed directly on the consumer which are stated separately pursuant to **subsection 2 of** NRS 360B.290.

3. The term includes consideration received by a seller from a third party if:

(a) The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(b) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(c) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(d) Any of the following criteria is satisfied:

(1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.

(2) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount. For the purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.

(3) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

**Sec. 8.** Chapter 372 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The provisions of this chapter relating to:**

**(a) The imposition, collection and remittance of the sales tax apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.**

**(b) The collection and remittance of the use tax apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.**

**2. In administering the provisions of this chapter, the Department shall construe the terms “seller,” “retailer” and “retailer maintaining a place of business in this State” in accordance with the provisions of subsection 1.**

**Sec. 9.** NRS 372.155 is hereby amended to read as follows:

372.155 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax, it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes ~~in good faith~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

- (a) Is engaged in the business of selling tangible personal property;
- (b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and
- (c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

- (a) The third-party vendor:
  - (1) Takes ~~in good faith~~ from his or her customer a certificate to the effect that the property is purchased for resale; or
  - (2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and
- (b) His or her customer:
  - (1) Is engaged in the business of selling tangible personal property; and
  - (2) Is selling the property in the regular course of business.

**Sec. 10.** NRS 372.225 is hereby amended to read as follows:

372.225 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes ~~in good faith~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

- (a) Is engaged in the business of selling tangible personal property;
- (b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes ~~in good faith~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

**Sec. 11.** NRS 372.250 is hereby amended to read as follows:

372.250 **1.** It is presumed that tangible personal property shipped or brought to this State by the purchaser on or after July 1, 1979, was purchased from a retailer on or after July 1, 1979, for storage, use or other consumption in this State.

**2. *This presumption may be controverted by the vendor or purchaser by evidence showing that the property was stored or used:***

**(a) *Exclusively outside of this State during the initial 30 days after its purchase; and***

**(b) *Outside of this State for a majority of the time during the initial 12 months after its purchase.***

**Sec. 12.** NRS 372.255 is hereby amended to read as follows:

372.255 **1.** ~~Except as otherwise provided in NRS 372.258, on~~ **On** and after July 1, 1979, it is presumed that tangible personal property delivered outside this State to a purchaser known by the retailer to be a resident of this State was purchased from a retailer for storage, use or other consumption in this State and stored, used or otherwise consumed in this State.

**2.** This presumption may be controverted by:

(a) ~~the~~ **The vendor by a written** statement ~~in writing, signed by the purchaser or his or her authorized representative, and retained by the vendor,~~ that the property was purchased for use at a designated point or points outside this State ~~;~~

(b) ~~Other evidence satisfactory to the Department that the property was not purchased for storage, use or other consumption in this State.~~ **, if the statement is:**

**(1) Signed by the purchaser or his or her authorized representative; and**

**(2) Taken and retained by the vendor ~~in good faith~~ or**

*(b) The vendor or purchaser by evidence showing that the property was stored or used:*

*(1) Exclusively outside of this State during the initial 30 days after its purchase; and*

*(2) Outside of this State for a majority of the time during the initial 12 months after its purchase.*

**Sec. 13.** NRS 372.347 is hereby amended to read as follows:

372.347 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such ~~identifying~~ information from the purchaser ~~at the time of sale~~ as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer ~~fraudulently~~ :

*(a) Fraudulently* fails to collect the tax ~~or solicits~~ ;

*(b) Solicits* a purchaser to participate in an unlawful claim of an exemption ~~+~~ ; or

*(c) Accepts a certificate of exemption from a purchaser who claims an entity-based exemption, the subject of the transaction sought to be covered by the certificate is actually received by the purchaser at a location operated by the seller, and the Department provides, and posts on a website or other Internet site that is operated or administered by or on behalf of the Department, a certificate of exemption which clearly and affirmatively indicates that the claimed exemption is not available.*

6. As used in this section ~~+~~ “retailer” :

*(a) “Entity-based exemption” means an exemption based on who purchases the product or who sells the product, and which is not available to all.*



(b) “**Retailer**” includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.

**Sec. 14.** NRS 372.360 is hereby amended to read as follows:

372.360 Except as otherwise required by the Department pursuant to NRS 360B.200:

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form *and manner* as the Department may prescribe. Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 374 of NRS.

2. For purposes of:

(a) The sales tax, a return must be filed by each seller.

(b) The use tax, a return must be filed by each retailer maintaining a place of business in the State and by each person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due.

3. ~~Returns~~ *Unless filed electronically, returns* must be signed by the person required to file the return or by his or her authorized agent but need not be verified by oath.

**Sec. 15.** NRS 372.365 is hereby amended to read as follows:

372.365 1. Except as otherwise required by the Department pursuant to NRS 360B.200 or provided in NRS 360B.350 to 360B.375, inclusive ~~+~~, *or section 2 of this act:*

(a) For the purposes of the sales tax:

(1) The return must show the gross receipts of the seller during the preceding reporting period.

(2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

(3) A sale pertains to the county in this State in which the tangible personal property is or will be delivered to the purchaser or his or her agent or designee.

(b) For purposes of the use tax:

(1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

(2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

(3) If the property was:

(I) Brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property is or will be first used, stored or otherwise consumed.

(II) Not brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property was delivered to the purchaser or his or her agent or designee.

2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this State in which the property was first used, stored or consumed.

3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

4. Except as otherwise provided in subsection 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or \$3,000, whichever is less.

5. For the purposes of subsection 4, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

**Sec. 16.** NRS 372.375 is hereby amended to read as follows:

372.375 1. Except as otherwise *authorized or* required by the Department, ~~[pursuant to NRS 360B.200,]~~ the person required to file a return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed pursuant to NRS 360.092.

**Sec. 17.** Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. *The provisions of this chapter relating to:***

**(a) *The imposition, collection and remittance of the sales tax apply to every retailer whose activities have a sufficient nexus with a county to satisfy the requirements of the United States Constitution.***

**(b) *The collection and remittance of the use tax apply to every retailer whose activities have a sufficient nexus with a county to satisfy the requirements of the United States Constitution.***

**2. *In administering the provisions of this chapter, the Department shall construe the terms “seller,” “retailer” and “retailer maintaining a place of business in a county” in accordance with the provisions of subsection 1.***

**Sec. 18.** NRS 374.160 is hereby amended to read as follows:

374.160 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes ~~in good faith~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

(a) The third-party vendor:

(1) Takes ~~in good faith~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

**Sec. 19.** NRS 374.230 is hereby amended to read as follows:

374.230 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in a county is sold for storage, use or other consumption in the county until the

contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes ~~in good faith~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

- (a) Is engaged in the business of selling tangible personal property;
- (b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and
- (c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

- (a) The third-party vendor:
  - (1) Takes ~~in good faith~~ from his or her customer a certificate to the effect that the property is purchased for resale; or
  - (2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and
- (b) His or her customer:
  - (1) Is engaged in the business of selling tangible personal property; and
  - (2) Is selling the property in the regular course of business.

**Sec. 20.** NRS 374.255 is hereby amended to read as follows:

374.255 **1.** It ~~shall be further~~ **is** presumed that tangible personal property shipped or brought to a county by the purchaser after July 1, 1967, was purchased from a retailer on or after July 1, 1967, for storage, use or other consumption in the county.

**2. This presumption may be controverted by the vendor or purchaser by evidence showing that the property was stored or used:**

**(a) Exclusively outside of a county during the initial 30 days after its purchase; and**

**(b) Outside of a county for a majority of the time during the initial 12 months after its purchase.**

**Sec. 21.** NRS 374.260 is hereby amended to read as follows:

374.260 **1.** ~~Except as otherwise provided in NRS 374.263, on~~ **On** and after July 1, 1967, it is ~~further~~ presumed that tangible personal property delivered outside this State to a purchaser known by the retailer to be a resident of the county was purchased from a retailer for storage, use or other consumption in the county and stored, used or otherwise consumed in the county.

**2. This presumption may be controverted by:**

**(a) ~~IA~~ The vendor by a written statement ~~in writing, signed by the purchaser or his or her authorized representative, and retained by the vendor,~~**

that the property was purchased for use at a designated point or points outside this State ~~[-~~

~~(b) Other evidence satisfactory to the Department that the property was not purchased for storage, use or other consumption in this State.] , if the statement is:~~

~~(1) Signed by the purchaser or his or her authorized representative; and~~

~~(2) Taken and retained by the vendor ~~[- in good faith -]~~ or~~

~~(b) The vendor or purchaser by evidence showing that the property was stored or used:~~

~~(1) Exclusively outside of this State during the initial 30 days after its purchase; and~~

~~(2) Outside of this State for a majority of the time during the initial 12 months after its purchase.~~

**Sec. 22.** NRS 374.352 is hereby amended to read as follows:

374.352 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such ~~[- identifying]~~ information from the purchaser ~~[- at the time of sale]~~ as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer ~~[- fraudulently]~~ :

~~(a) Fraudulently~~ fails to collect the tax ~~[- or solicits]~~ ;

~~(b) Solicits~~ a purchaser to participate in an unlawful claim of an exemption ~~[-]~~ ; or

~~(c) Accepts a certificate of exemption from a purchaser who claims an entity-based exemption, the subject of the transaction sought to be covered by the certificate is actually received by the purchaser at a location operated by the seller, and the Department provides, and posts on a website~~

*or other Internet site that is operated or administered by or on behalf of the Department, a certificate of exemption which clearly and affirmatively indicates that the claimed exemption is not available.*

6. As used in this section ~~[-“retailer”]~~ :

(a) *“Entity-based exemption” means an exemption based on who purchases the product or who sells the product, and which is not available to all.*

(b) *“Retailer”* includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.

**Sec. 23.** NRS 374.365 is hereby amended to read as follows:

374.365 Except as otherwise required by the Department pursuant to NRS 360B.200:

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form *and manner* as the Department may prescribe. Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 372 of NRS.

2. For purposes of:

(a) The sales tax, a return must be filed by every seller.

(b) The use tax, a return must be filed by every retailer maintaining a place of business in the county and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due.

3. ~~{Returns}~~ *Unless filed electronically, returns* must be signed by the person required to file the return or by his or her authorized agent but need not be verified by oath.

**Sec. 24.** NRS 374.370 is hereby amended to read as follows:

374.370 1. Except as otherwise required by the Department pursuant to NRS 360B.200 or provided in NRS 360B.350 to 360B.375, inclusive ~~[-]~~ , *or section 2 of this act:*

(a) For the purposes of the sales tax:

(1) The return must show the gross receipts of the seller during the preceding reporting period.

(2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

(3) A sale pertains to the county in this State in which the tangible personal property is or will be delivered to the purchaser or his or her agent or designee.

(b) For purposes of the use tax:

(1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him or her, the storage, use or

consumption of which property became subject to the use tax during the preceding reporting period.

(2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

(3) If the property was:

(I) Brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property is or will be first used, stored or otherwise consumed.

(II) Not brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property was delivered to the purchaser or his or her agent or designee.

2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this State in which the property was first used, stored or consumed.

3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

4. Except as otherwise provided in subsection 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or \$3,000, whichever is less.

5. For the purposes of subsection 4, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

**Sec. 25.** NRS 374.380 is hereby amended to read as follows:

374.380 1. Except as otherwise *authorized or* required by the Department, ~~[pursuant to NRS 360B.200,]~~ the person required to file a

return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed pursuant to NRS 360.092.

**Sec. 26.** NRS 360B.280, 372.258 and 374.263 are hereby repealed.

**Sec. 27.** This act becomes effective upon passage and approval.

#### TEXT OF REPEALED SECTIONS

##### **360B.280 Purchases of direct mail.**

1. A purchaser of direct mail must provide to the seller at the time of the purchase:

(a) If the seller does not maintain a place of business in this State:

(1) A form for direct mail approved by the Department;

(2) An informational statement of the jurisdictions to which the direct mail will be delivered to recipients; or

(3) Documentation of the direct pay permit of the purchaser issued pursuant to NRS 360B.260; or

(b) If the seller maintains a place of business in this State, an informational statement of the jurisdictions to which the direct mail will be delivered to recipients.

➡ If a purchaser of direct mail provides documentation of a direct pay permit to a seller in accordance with subparagraph (3) of paragraph (a), the seller shall not require the purchaser to comply with any other provision of that paragraph.

2. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:

(a) Upon the receipt pursuant to subsection 1 of:

(1) A form for direct mail by a seller who does not maintain a place of business in this State:

(I) The seller is relieved of any liability for the collection, payment or remission of any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller; and

(II) The purchaser is liable for any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller.

➡ Any form for direct mail provided to a seller pursuant to this subparagraph applies to all future sales of direct mail made by that seller to that purchaser until the purchaser delivers a written notice of revocation to the seller.

(2) An informational statement by any seller, the seller shall collect, pay or remit any applicable sales and use taxes in accordance with the information contained in that statement. In the absence of bad faith, the seller



is relieved of any liability to collect, pay or remit any sales and use taxes other than in accordance with that information received.

(b) If a purchaser of direct mail does not comply with subsection 1, the seller shall determine the location of the sale pursuant to subsection 5 of NRS 360B.360 and collect, pay or remit any applicable sales and use taxes. This paragraph does not limit the liability of the purchaser for the payment of any of those taxes.

3. As used in this section, “direct mail” means printed material delivered or distributed by the United States Postal Service or another delivery service to a mass audience or to addresses contained on a mailing list provided by a purchaser or at the direction of a purchaser when the cost of the items purchased is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the seller of the direct mail for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.

**372.258 Presumption that certain property delivered outside this State was not purchased for use in this State.**

1. It is presumed that tangible personal property delivered outside this State to a purchaser was not purchased from a retailer for storage, use or other consumption in this State if the property:

- (a) Was first used in interstate or foreign commerce outside this State; and
- (b) Is used continuously in interstate or foreign commerce, but not exclusively in this State, for at least 12 months after the date that the property was first used pursuant to paragraph (a).

2. As used in this section:

(a) “Interstate or foreign commerce” means the transportation of passengers or property between:

(1) A point in one state and a point in:

- (I) Another state;
- (II) A possession or territory of the United States; or
- (III) A foreign country; or

(2) Points in the same state when such transportation consists of one or more segments of transportation that immediately follow movement of the property into the state from a point beyond its borders or immediately precede movement of the property from within the state to a point outside its borders.

(b) “State” includes the District of Columbia.

**374.263 Presumption that certain property delivered outside this State was not purchased for use in this State.**

1. It is presumed that tangible personal property delivered outside this State to a purchaser was not purchased from a retailer for storage, use or other consumption in this State if the property:

- (a) Was first used in interstate or foreign commerce outside this State; and
- (b) Is used continuously in interstate or foreign commerce, but not exclusively in this State, for at least 12 months after the date that the property was first used pursuant to paragraph (a).

2. As used in this section:

(a) “Interstate or foreign commerce” means the transportation of passengers or property between:

(1) A point in one state and a point in:

- (I) Another state;
- (II) A possession or territory of the United States; or
- (III) A foreign country; or

(2) Points in the same state when such transportation consists of one or more segments of transportation that immediately follow movement of the property into the state from a point beyond its borders or immediately precede movement of the property from within the state to a point outside its borders.

(b) “State” includes the District of Columbia.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblywoman Kirkpatrick:  
Amendment No. 825.

AN ACT relating to taxation; revising the provisions governing the administration of sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement ~~to~~ **and to** apply the taxes to retailers whose activities have a sufficient nexus with this State; ~~and provide for the rebuttal of certain presumptions regarding the application of use taxes to property delivered outside of or brought into this State;~~ and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides for the administration of sales and use taxes in this State pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 360B, 372 and 374 of NRS) Under existing law, the Legislature has found and declared that this State should enter into an interstate agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and types of commerce. (NRS 360B.020) Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions

reasonably required to implement the provisions of the Agreement. (NRS 360B.110)

This bill carries out various requirements of the Streamlined Sales and Use Tax Agreement. **Sections 2 and 26** of this bill replace superseded requirements for purchases of direct mail with new requirements regarding the sourcing of those transactions to various jurisdictions and the respective responsibilities of sellers and purchasers for the collection, reporting and payment of the applicable taxes. **Section 3** of this bill sets forth a new requirement regarding the registration of certain sellers who anticipate making no sales into certain states. **Sections 3, 14 and 23** of this bill carry out a new requirement to allow the electronic filing of simplified tax returns. **Sections 4 and 7** of this bill carry out a recent amendment to the Agreement governing the taxation of delivery charges. **Section 4.5** of this bill carries out a recent amendment to the Agreement regarding the due dates for tax returns and payments. **Sections 13 and 22** of this bill set forth new requirements regarding the liability of a seller for accepting certain certificates of exemption which indicate that the claimed exemption is not available. **Sections 5 and 6** of this bill delete certain provisions of the Agreement that do not apply in this State. **Sections 9, 10, 18 and 19** of this bill delete a requirement for good faith which is not allowed by the Agreement.

Under existing law, the Commerce Clause of the United States Constitution prohibits a state from requiring a retailer to collect sales and use taxes unless the activities of the retailer have a substantial nexus with the taxing state. (*Quill Corp. v. North Dakota*, 504 U.S. 298, 112 S.Ct. 1904 (1992)) **Sections 8 and 17** of this bill apply the sales and use taxes imposed in this State to every retailer whose activities have such a nexus.

~~Existing law creates various presumptions regarding the application of the use taxes imposed in this State to property which is delivered outside of this State to a purchaser or brought into this State by a purchaser. (NRS 372.250, 372.255, 372.258, 374.255, 374.260, 374.263) Sections 11, 12, 20, 21 and 26 of this bill revise that law to specify the methods for controverting a presumption that those taxes apply.~~

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

**Section 1.** NRS 360.299 is hereby amended to read as follows:

360.299 1. In determining the amount of:

(a) Sales tax due on a sale at retail, the rate of tax used must be the sum of the rates of all taxes imposed upon sales at retail in:

(1) The county determined pursuant to the provisions of NRS 360B.350 to 360B.375, inclusive ~~11~~, *or section 2 of this act*; or

(2) If those provisions do not apply to the sale, the county in which the property is or will be delivered to the purchaser or the agent or designee of the purchaser.

(b) Use tax due on the purchase of tangible personal property for use, storage or other consumption in this state, the rate of tax used must be the sum of the rates of all taxes imposed upon the use, storage or other consumption of property in:

(1) The county determined pursuant to the provisions of NRS 360B.350 to 360B.375, inclusive ~~to~~, ***or section 2 of this act***; or

(2) If those provisions do not apply to the purchase, the county in which the property is first used, stored or consumed.

2. In determining the amount of taxes due pursuant to subsection 1:

(a) The amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.

(b) A retailer may compute the amount due on a transaction on the basis of each item involved in the transaction or a single invoice for the entire transaction.

3. On or before January 1 of each year, the Department shall transmit to each retailer to whom a permit has been issued a notice which contains the provisions of subsections 1 and 2 and NRS 372.365.

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

***1. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:***

***(a) A purchaser of advertising and promotional direct mail may provide the seller with:***

***(1) Documentation of the direct pay permit of the purchaser issued pursuant NRS 360B.260;***

***(2) A certificate or written statement, in a form approved by the Department in accordance with the provisions of the Agreement, claiming the direct mail; or***

***(3) An informational statement of the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients.***

***(b) If the purchaser provides the documentation, certificate or statement pursuant to subparagraph (1) or (2) of paragraph (a), the sale shall be deemed to take place in the jurisdictions to which the advertising and promotional direct mail is to be delivered to the recipients and:***

***(1) If the seller does not maintain a place of business in this State:***

***(1) The purchaser shall report and pay any applicable sales or use taxes due; and***

*(II) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the advertising and promotional direct mail to which the documentation, certificate or statement applies; or*

*(2) If the seller maintains a place of business in this State:*

*(I) The seller shall collect and remit any applicable sales or use taxes due in this State;*

*(II) The purchaser shall report and pay any applicable sales or use taxes due in any other state; and*

*(III) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the advertising and promotional direct mail to which the documentation, certificate or statement applies which are due in any other state.*

*(c) If the purchaser provides the informational statement pursuant to subparagraph (3) of paragraph (a):*

*(1) The sale shall be deemed to take place in the jurisdictions to which the advertising and promotional direct mail is to be delivered;*

*(2) The seller shall collect and remit any applicable sales or use taxes due to those jurisdictions; and*

*(3) If the seller complies with subparagraph (2) in accordance with the delivery information provided by the purchaser, the seller, in the absence of bad faith, is relieved of any further obligation to collect any additional sales or use taxes on the sale.*

*(d) If the purchaser does not provide the seller with any of the items listed in paragraph (a), the sale shall be deemed to take place at the location described in subsection 5 of NRS 360B.360. The state to which the advertising and promotional direct mail is delivered may disallow credit for any sales or use taxes paid in accordance with this paragraph.*

*2. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:*

*(a) Except as otherwise provided in this subsection, the sale of other direct mail shall be deemed to take place at the location described in subsection 3 of NRS 360B.360.*

*(b) A purchaser of other direct mail may provide the seller with:*

*(1) Documentation of the direct pay permit of the purchaser issued pursuant NRS 360B.260; or*

*(2) A certificate or written statement, in a form approved by the Department in accordance with the provisions of the Agreement, claiming the direct mail.*

*(c) If the purchaser provides the documentation, certificate or statement pursuant to paragraph (b), the sale shall be deemed to take place in the*

*jurisdictions to which the other direct mail is to be delivered to the recipients and:*

*(1) If the seller does not maintain a place of business in this State:*

*(I) The purchaser shall report and pay any applicable sales or use taxes due; and*

*(II) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the other direct mail to which the documentation, certificate or statement applies; or*

*(2) If the seller maintains a place of business in this State:*

*(I) The seller shall collect and remit any applicable sales or use taxes due in this State;*

*(II) The purchaser shall report and pay any applicable sales or use taxes due in any other state; and*

*(III) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the other direct mail to which the documentation, certificate or statement applies which are due in any other state.*

*3. This section does not apply to any transaction that includes the development of billing information or the provision of any data processing service that is more than incidental, regardless of whether any advertising and promotional direct mail is included in the same mailing.*

*4. If a transaction is a bundled transaction, as defined by a regulation of the Department in accordance with the provisions of the Agreement, that includes advertising and promotional direct mail, this section applies only if the primary purpose of the transaction is the sale of products that meet the definition set forth in paragraph (a) of subsection 6.*

*5. The provisions of this section do not limit any purchaser's:*

*(a) Liability for any sales or use taxes to any states to which the direct mail is delivered;*

*(b) Rights under local, state, federal or constitutional law, to a credit for sales or use taxes due and paid to other jurisdictions; or*

*(c) Right to a refund of any sales or use taxes overpaid to any jurisdiction.*

*6. As used in this section:*

*(a) "Advertising and promotional direct mail" means direct mail, the primary purpose of which is to attract public attention to a product, person, business or organization, or to attempt to sell, popularize or secure financial support for a product, person, business or organization. As used in this paragraph, "product" means tangible personal property, a product transferred electronically or a service.*

*(b) “Direct mail” means printed material delivered or distributed by the United States Postal Service or another delivery service to a mass audience or to addresses contained on a mailing list provided by a purchaser or at the direction of a purchaser when the cost of the items purchased is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the seller of the direct mail for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.*

*(c) “Other direct mail” means any direct mail that is not advertising and promotional direct mail, regardless of whether any advertising and promotional direct mail is included in the same mailing. The term:*

*(1) Includes, but is not limited to:*

*(I) Transactional direct mail that contains personal information specific to the addressee, including, but not limited to, invoices, bills, statements of account and payroll advices;*

*(II) Any legally required mailings, including, but not limited to, privacy notices, tax reports and stockholder reports; and*

*(III) Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees or agents, including, but not limited to, newsletters and informational pieces; and*

*(2) Does not include the development of billing information or the provision of any data processing service that is more than incidental.*

**Sec. 3.** NRS 360B.200 is hereby amended to read as follows:

360B.200 1. The Department shall, in cooperation with any other states that are members of the Agreement, establish and maintain a central, electronic registration system that allows a seller to register to collect and remit the sales and use taxes imposed in this State and in the other states that are members of the Agreement.

2. A seller who registers pursuant to this section agrees to collect and remit sales and use taxes in accordance with the provisions of this chapter, the regulations of the Department and the applicable law of each state that is a member of the Agreement, including any state that becomes a member of the Agreement after the registration of the seller pursuant to this section. The cancellation or revocation of the registration of a seller pursuant to this section, the withdrawal of a state from the Agreement or the revocation of the Agreement does not relieve a seller from liability pursuant to this subsection to remit any taxes previously or subsequently collected on behalf of a state.

3. When registering pursuant to this section, a seller may:

(a) Elect to use a certified service provider as its agent to perform all the functions of the seller relating to sales and use taxes, other than the obligation of the seller to remit the taxes on its own purchases;

(b) Elect to use a certified automated system to calculate the amount of sales or use taxes due on its sales transactions;

(c) Under such conditions as the Department deems appropriate in accordance with the Agreement, elect to use its own proprietary automated system to calculate the amount of sales or use taxes due on its sales transactions; or

(d) Elect to use any other method authorized by the Department for performing the functions of the seller relating to sales and use taxes.

4. *A seller who registers pursuant to this section and does not make the election allowed pursuant to paragraph (a) of subsection 3 may elect to be registered in any state that:*

*(a) Is a member of the Agreement at the time of that registration, as a seller who anticipates making no sales into that state if the seller has not had any sales into that state for the preceding 12 months; and*

*(b) Becomes a member of the Agreement after that registration, as a seller who anticipates making no sales into that state.*

5. A seller who registers pursuant to this section agrees to submit its sales and use tax returns, and to remit any sales and use taxes due, to the Department at such times and in such a manner and format as the Department prescribes by regulation. Those regulations must:

(a) Require from each seller who registers pursuant to this section:

(1) Only ~~one~~ **a single** tax return for each taxing period for all the sales and use taxes collected on behalf of this State and each local government in this State; and

(2) Only one remittance of taxes for each tax return, except that the Department may require additional remittances of taxes if the seller:

(I) Collects more than \$30,000 in sales and use taxes on behalf of this State and the local governments in this State during the preceding calendar year;

(II) Is allowed to determine the amount of any additional remittance by a method of calculation instead of by the actual amount collected; and

(III) Is not required to file any tax returns in addition to those otherwise required in accordance with this subsection.

(b) Allow any seller who registers pursuant to this section ~~and makes an election pursuant to paragraph (a), (b) or (c) of subsection 3]~~ to submit tax returns **electronically** in a simplified format. ~~[that does not include any more data fields than are permitted in accordance with the Agreement.]~~

(c) Allow any seller who registers pursuant to this section, does not maintain a place of business in this State and has not made an election pursuant to paragraph (a), (b) or (c) of subsection 3, to file tax returns at a frequency that does not exceed once per year unless the seller accumulates



more than \$1,000 in the collection of sales and use taxes on behalf of this State and the local governments in this State.

(d) Provide an alternative method for a seller who registers pursuant to this section to make tax payments the same day as the seller intends if an electronic transfer of money fails.

(e) Require any data that accompanies the remittance of a tax payment by or on behalf of a seller who registers pursuant to this section to be formatted using uniform codes for the type of tax and payment in accordance with the Agreement.

~~{5-}~~ **6.** The registration of a seller and the collection and remission of sales and use taxes pursuant to this section may not be considered as a factor in determining whether a seller has a nexus with this State for the purposes of determining the liability of the seller to pay any tax imposed by this State.

**Sec. 4.** NRS 360B.290 is hereby amended to read as follows:

360B.290 Any invoice, billing or other document given to a purchaser that indicates the sales price for which tangible personal property is sold ~~{must}~~ :

1. ~~May~~ state separately any amount received by the seller for ~~1-~~ ~~Any~~ **any** transportation, shipping or postage charges for the delivery of the property to a location designated by the purchaser ~~{-}~~ ; **and**
2. **Must state separately any amount received by the seller for:**
  - ~~{a}~~ (a) Any installation charges for the property;
  - ~~{3-}~~ (b) Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;
  - ~~{4-}~~ (c) Any interest, financing and carrying charges from credit extended on the sale; and
  - ~~{5-}~~ (d) Any taxes legally imposed directly on the consumer.

**Sec. 4.5.** NRS 360B.300 is hereby amended to read as follows:

360B.300 Notwithstanding the provisions of any other specific statute ~~{-}~~ ~~{if}~~ :

1. **If** any sales or use tax is due and payable on ~~{at}~~ :
  - (a) A Saturday, Sunday or legal holiday, the tax may be paid on the next succeeding business day ~~{-}~~ ; **or**
  - (b) *A day on which a Federal Reserve bank is closed and, as a result of that closure, the taxpayer is not able to remit the tax electronically in accordance with the regulations adopted by the Department pursuant to NRS 360.092, the tax may be paid on the next succeeding day on which the Federal Reserve bank is open.*
2. **If any sales or use tax return is:**
  - (a) *Due on a Saturday, Sunday or legal holiday, the return may be filed on the next succeeding business day; or*

*(b) Required to be filed in conjunction with a remittance of the tax and paragraph (b) of subsection 1 applies to that remittance, the return may be filed on the same day as the tax may be paid in accordance with that paragraph.*

**Sec. 5.** NRS 360B.350 is hereby amended to read as follows:

360B.350 As used in NRS 360B.350 to 360B.375, inclusive:

1. "Receive" means taking possession of ~~for making the first use of~~ tangible personal property . ~~[-, whichever occurs first.]~~ The term does not include possession by a shipping company on behalf of a purchaser.

2. "Transportation equipment" means:

(a) Locomotives and railcars used for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors having a manufacturer's gross vehicle weight rating of more than 10,000 pounds, and trailers, semitrailers and passenger buses that are:

(1) Registered pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or

(2) Operated under the authority of a carrier who is authorized by the Federal Government to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft operated by an air carrier who is authorized by the Federal Government or a foreign government to engage in the carriage of persons or property in interstate or foreign commerce.

(d) Containers designed for use on and component parts attached or secured to any of the items described in paragraph (a), (b) or (c).

**Sec. 5.5.** NRS 360B.355 is hereby amended to read as follows:

360B.355 1. Except as otherwise provided in this section ~~[-]~~ **and section 2 of this act**, for the purpose of determining the liability of a seller for sales and use taxes, a retail sale shall be deemed to take place at the location determined pursuant to NRS 360B.350 to 360B.375, inclusive.

2. NRS 360B.350 to 360B.375, inclusive, do not:

(a) Affect any liability of a purchaser or lessee for a use tax.

(b) Apply to:

(1) The retail sale or transfer of watercraft, modular homes, manufactured homes or mobile homes.

(2) The retail sale, other than the lease or rental, of motor vehicles, trailers, semitrailers or aircraft that do not constitute transportation equipment.

**Sec. 6.** NRS 360B.360 is hereby amended to read as follows:

360B.360 Except as otherwise provided in NRS 360B.350 to 360B.375, inclusive, the retail sale, excluding the lease or rental, of tangible personal property shall be deemed to take place:

1. If the property is received by the purchaser at a place of business of the seller, at that place of business.

2. If the property is not received by the purchaser at a place of business of the seller:

(a) At the location indicated to the seller pursuant to any instructions provided for the delivery of the property to the purchaser or to another recipient who is designated by the purchaser as his or her donee; or

(b) If no such instructions are provided and if known by the seller, at the location where the purchaser or another recipient who is designated by the purchaser as his or her donee, receives the property.

3. If subsections 1 and 2 do not apply, at the address of the purchaser indicated in the business records of the seller that are maintained in the ordinary course of the seller's business, unless the use of that address would constitute bad faith.

4. If subsections 1, 2 and 3 do not apply, at the address of the purchaser obtained during the consummation of the sale, including, if no other address is available, the address of the purchaser's instrument of payment, unless the use of an address pursuant to this subsection would constitute bad faith.

5. In all other circumstances, at the address from which the property was shipped. ~~for, if it was delivered electronically, at the address from which it was first available for transmission by the seller.~~

**Sec. 7.** NRS 360B.480 is hereby amended to read as follows:

360B.480 1. "Sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:

(a) The seller's cost of the property sold;

(b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges which are not stated separately pursuant to **subsection 1 of** NRS 360B.290 and excluding any installation charges which are stated separately pursuant to **subsection 2 of** NRS 360B.290; and

(d) Except as otherwise provided in subsection 2, any credit for any trade-in.

2. The term does not include:

(a) Any delivery charges which are stated separately pursuant to **subsection 1 of** NRS 360B.290;

(b) Any installation charges which are stated separately pursuant to **subsection 2 of** NRS 360B.290;

(c) Any credit for any trade-in which is:

(1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and

(2) Stated separately pursuant to **subsection 2 of** NRS 360B.290;

(d) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;

(e) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to **subsection 2 of** NRS 360B.290; and

(f) Any taxes legally imposed directly on the consumer which are stated separately pursuant to **subsection 2 of** NRS 360B.290.

3. The term includes consideration received by a seller from a third party if:

(a) The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(b) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(c) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(d) Any of the following criteria is satisfied:

(1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.

(2) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount. For the purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.

(3) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

**Sec. 8.** Chapter 372 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The provisions of this chapter relating to:**

**(a) The imposition, collection and remittance of the sales tax apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.**

*(b) The collection and remittance of the use tax apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.*

*2. In administering the provisions of this chapter, the Department shall construe the terms “seller,” “retailer” and “retailer maintaining a place of business in this State” in accordance with the provisions of subsection 1.*

**Sec. 9.** NRS 372.155 is hereby amended to read as follows:

372.155 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax, it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes ~~in good faith~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

(a) The third-party vendor:

(1) Takes ~~in good faith~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

**Sec. 10.** NRS 372.225 is hereby amended to read as follows:

372.225 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes ~~in good faith~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes ~~in good faith~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

**Sec. 11.** ~~[NRS 372.250 is hereby amended to read as follows:~~

~~372.250 1. It is presumed that tangible personal property shipped or brought to this State by the purchaser on or after July 1, 1979, was purchased from a retailer on or after July 1, 1979, for storage, use or other consumption in this State.~~

~~2. This presumption may be controverted by the vendor or purchaser by evidence showing that the property was stored or used:~~

~~(a) Exclusively outside of this State during the initial 30 days after its purchase; and~~

~~(b) Outside of this State for a majority of the time during the initial 12 months after its purchase.] (Deleted by amendment.)~~

**Sec. 12.** ~~[NRS 372.255 is hereby amended to read as follows:~~

~~372.255 1. [Except as otherwise provided in NRS 372.258, on] On and after July 1, 1979, it is presumed that tangible personal property delivered outside this State to a purchaser known by the retailer to be a resident of this State was purchased from a retailer for storage, use or other consumption in this State and stored, used or otherwise consumed in this State.~~

~~2. This presumption may be controverted by:~~

~~(a) [A] The vendor by a written statement [in writing, signed by the purchaser or his or her authorized representative, and retained by the vendor,] that the property was purchased for use at a designated point or points outside this State [.~~

~~(b) Other evidence satisfactory to the Department that the property was not purchased for storage, use or other consumption in this State.] , if the statement is:~~

~~(1) Signed by the purchaser or his or her authorized representative; and~~

~~(2) Taken and retained by the vendor in good faith; or~~

~~(b) The vendor or purchaser by evidence showing that the property was stored or used:~~

~~(1) Exclusively outside of this State during the initial 30 days after its purchase; and~~

~~(2) Outside of this State for a majority of the time during the initial 12 months after its purchase.} (Deleted by amendment.)~~

Sec. 13. NRS 372.347 is hereby amended to read as follows:

372.347 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such ~~{identifying}~~ information from the purchaser ~~{at the time of sale}~~ as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer ~~{fraudulently}~~ :

~~(a) Fraudulently~~ fails to collect the tax ~~{or solicits}~~ ;

~~(b) Solicits~~ a purchaser to participate in an unlawful claim of an exemption ~~{}~~ ; or

~~(c) Accepts a certificate of exemption from a purchaser who claims an entity-based exemption, the subject of the transaction sought to be covered by the certificate is actually received by the purchaser at a location operated by the seller, and the Department provides, and posts on a website or other Internet site that is operated or administered by or on behalf of the Department, a certificate of exemption which clearly and affirmatively indicates that the claimed exemption is not available.~~

6. As used in this section ~~{“retailer”}~~ :

(a) **“Entity-based exemption” means an exemption based on who purchases the product or who sells the product, and which is not available to all.**

(b) **“Retailer”** includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.

**Sec. 14.** NRS 372.360 is hereby amended to read as follows:

372.360 Except as otherwise required by the Department pursuant to NRS 360B.200:

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form **and manner** as the Department may prescribe. Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 374 of NRS.

2. For purposes of:

(a) The sales tax, a return must be filed by each seller.

(b) The use tax, a return must be filed by each retailer maintaining a place of business in the State and by each person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due.

3. ~~{Returns}~~ **Unless filed electronically, returns** must be signed by the person required to file the return or by his or her authorized agent but need not be verified by oath.

**Sec. 15.** NRS 372.365 is hereby amended to read as follows:

372.365 1. Except as otherwise required by the Department pursuant to NRS 360B.200 or provided in NRS 360B.350 to 360B.375, inclusive ~~{-}~~, **or section 2 of this act:**

(a) For the purposes of the sales tax:

(1) The return must show the gross receipts of the seller during the preceding reporting period.

(2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

(3) A sale pertains to the county in this State in which the tangible personal property is or will be delivered to the purchaser or his or her agent or designee.

(b) For purposes of the use tax:

(1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

(2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.



(3) If the property was:

(I) Brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property is or will be first used, stored or otherwise consumed.

(II) Not brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property was delivered to the purchaser or his or her agent or designee.

2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this State in which the property was first used, stored or consumed.

3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

4. Except as otherwise provided in subsection 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or \$3,000, whichever is less.

5. For the purposes of subsection 4, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

**Sec. 16.** NRS 372.375 is hereby amended to read as follows:

372.375 1. Except as otherwise *authorized or* required by the Department, ~~[pursuant to NRS 360B.200,]~~ the person required to file a return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed pursuant to NRS 360.092.

**Sec. 17.** Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. *The provisions of this chapter relating to:***

**(a) *The imposition, collection and remittance of the sales tax apply to every retailer whose activities have a sufficient nexus with a county to satisfy the requirements of the United States Constitution.***

**(b) *The collection and remittance of the use tax apply to every retailer whose activities have a sufficient nexus with a county to satisfy the requirements of the United States Constitution.***

**2. *In administering the provisions of this chapter, the Department shall construe the terms “seller,” “retailer” and “retailer maintaining a place of business in a county” in accordance with the provisions of subsection 1.***

**Sec. 18.** NRS 374.160 is hereby amended to read as follows:

374.160 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes ~~in good faith~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

(a) The third-party vendor:

(1) Takes ~~in good faith~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

**Sec. 19.** NRS 374.230 is hereby amended to read as follows:

374.230 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in a county is sold for storage, use or other consumption in the county until the

contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes ~~in good faith~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

- (a) Is engaged in the business of selling tangible personal property;
- (b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and
- (c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

- (a) The third-party vendor:
  - (1) Takes ~~in good faith~~ from his or her customer a certificate to the effect that the property is purchased for resale; or
  - (2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and
- (b) His or her customer:
  - (1) Is engaged in the business of selling tangible personal property; and
  - (2) Is selling the property in the regular course of business.

Sec. 20. ~~[NRS 374.255 is hereby amended to read as follows:~~

~~374.255 1. It [shall be further] is presumed that tangible personal property shipped or brought to a county by the purchaser after July 1, 1967, was purchased from a retailer on or after July 1, 1967, for storage, use or other consumption in the county.~~

~~2. This presumption may be controverted by the vendor or purchaser by evidence showing that the property was stored or used:~~

~~(a) Exclusively outside of a county during the initial 30 days after its purchase; and~~

~~(b) Outside of a county for a majority of the time during the initial 12 months after its purchase.] (Deleted by amendment.)~~

Sec. 21. ~~[NRS 374.260 is hereby amended to read as follows:~~

~~374.260 1. [Except as otherwise provided in NRS 374.263, on] On and after July 1, 1967, it is [further] presumed that tangible personal property delivered outside this State to a purchaser known by the retailer to be a resident of the county was purchased from a retailer for storage, use or other consumption in the county and stored, used or otherwise consumed in the county.~~

~~2. This presumption may be controverted by:~~

~~(a) [A] The vendor by a written statement [in writing, signed by the purchaser or his or her authorized representative, and retained by the vendor,]~~

~~that the property was purchased for use at a designated point or points outside this State.]~~

~~(b) Other evidence satisfactory to the Department that the property was not purchased for storage, use or other consumption in this State.], if the statement is:~~

~~(1) Signed by the purchaser or his or her authorized representative; and~~

~~(2) Taken and retained by the vendor in good faith; or~~

~~(b) The vendor or purchaser by evidence showing that the property was stored or used:~~

~~(1) Exclusively outside of this State during the initial 30 days after its purchase; and~~

~~(2) Outside of this State for a majority of the time during the initial 12 months after its purchase.] (Deleted by amendment.)~~

Sec. 22. NRS 374.352 is hereby amended to read as follows:

374.352 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such ~~identifying~~ information from the purchaser ~~at the time of sale~~ as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer ~~fraudulently~~ :

(a) *Fraudulently* fails to collect the tax ~~for solicits~~ ;

(b) *Solicits* a purchaser to participate in an unlawful claim of an exemption ~~it~~ ; or

(c) *Accepts a certificate of exemption from a purchaser who claims an entity-based exemption, the subject of the transaction sought to be covered by the certificate is actually received by the purchaser at a location operated by the seller, and the Department provides, and posts on a website*

*or other Internet site that is operated or administered by or on behalf of the Department, a certificate of exemption which clearly and affirmatively indicates that the claimed exemption is not available.*

6. As used in this section ~~[-“retailer”]~~:

(a) *“Entity-based exemption” means an exemption based on who purchases the product or who sells the product, and which is not available to all.*

(b) *“Retailer”* includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.

**Sec. 23.** NRS 374.365 is hereby amended to read as follows:

374.365 Except as otherwise required by the Department pursuant to NRS 360B.200:

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form *and manner* as the Department may prescribe. Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 372 of NRS.

2. For purposes of:

(a) The sales tax, a return must be filed by every seller.

(b) The use tax, a return must be filed by every retailer maintaining a place of business in the county and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due.

3. ~~[-Returns]~~ *Unless filed electronically, returns* must be signed by the person required to file the return or by his or her authorized agent but need not be verified by oath.

**Sec. 24.** NRS 374.370 is hereby amended to read as follows:

374.370 1. Except as otherwise required by the Department pursuant to NRS 360B.200 or provided in NRS 360B.350 to 360B.375, inclusive ~~[-]~~, *or section 2 of this act:*

(a) For the purposes of the sales tax:

(1) The return must show the gross receipts of the seller during the preceding reporting period.

(2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

(3) A sale pertains to the county in this State in which the tangible personal property is or will be delivered to the purchaser or his or her agent or designee.

(b) For purposes of the use tax:

(1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him or her, the storage, use or

consumption of which property became subject to the use tax during the preceding reporting period.

(2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

(3) If the property was:

(I) Brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property is or will be first used, stored or otherwise consumed.

(II) Not brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property was delivered to the purchaser or his or her agent or designee.

2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this State in which the property was first used, stored or consumed.

3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

4. Except as otherwise provided in subsection 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or \$3,000, whichever is less.

5. For the purposes of subsection 4, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

**Sec. 25.** NRS 374.380 is hereby amended to read as follows:

374.380 1. Except as otherwise *authorized or* required by the Department, ~~[pursuant to NRS 360B.200,]~~ the person required to file a

return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed pursuant to NRS 360.092.

**Sec. 26.** NRS 360B.280, ~~NRS 372.258 and 374.263 are~~ is hereby repealed.

**Sec. 27.** This act becomes effective upon passage and approval.

#### TEXT OF REPEALED SECTION

##### **360B.280 Purchases of direct mail.**

1. A purchaser of direct mail must provide to the seller at the time of the purchase:

(a) If the seller does not maintain a place of business in this State:

(1) A form for direct mail approved by the Department;

(2) An informational statement of the jurisdictions to which the direct mail will be delivered to recipients; or

(3) Documentation of the direct pay permit of the purchaser issued pursuant to NRS 360B.260; or

(b) If the seller maintains a place of business in this State, an informational statement of the jurisdictions to which the direct mail will be delivered to recipients.

➡ If a purchaser of direct mail provides documentation of a direct pay permit to a seller in accordance with subparagraph (3) of paragraph (a), the seller shall not require the purchaser to comply with any other provision of that paragraph.

2. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:

(a) Upon the receipt pursuant to subsection 1 of:

(1) A form for direct mail by a seller who does not maintain a place of business in this State:

(I) The seller is relieved of any liability for the collection, payment or remission of any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller; and

(II) The purchaser is liable for any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller.

➡ Any form for direct mail provided to a seller pursuant to this subparagraph applies to all future sales of direct mail made by that seller to that purchaser until the purchaser delivers a written notice of revocation to the seller.

(2) An informational statement by any seller, the seller shall collect, pay or remit any applicable sales and use taxes in accordance with the information contained in that statement. In the absence of bad faith, the seller

is relieved of any liability to collect, pay or remit any sales and use taxes other than in accordance with that information received.

(b) If a purchaser of direct mail does not comply with subsection 1, the seller shall determine the location of the sale pursuant to subsection 5 of NRS 360B.360 and collect, pay or remit any applicable sales and use taxes. This paragraph does not limit the liability of the purchaser for the payment of any of those taxes.

3. As used in this section, "direct mail" means printed material delivered or distributed by the United States Postal Service or another delivery service to a mass audience or to addresses contained on a mailing list provided by a purchaser or at the direction of a purchaser when the cost of the items purchased is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the seller of the direct mail for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.

~~§ 372.258 Presumption that certain property delivered outside this State was not purchased for use in this State.~~

~~1. It is presumed that tangible personal property delivered outside this State to a purchaser was not purchased from a retailer for storage, use or other consumption in this State if the property:~~

~~(a) Was first used in interstate or foreign commerce outside this State; and~~  
~~(b) Is used continuously in interstate or foreign commerce, but not exclusively in this State, for at least 12 months after the date that the property was first used pursuant to paragraph (a).~~

~~2. As used in this section:~~

~~(a) "Interstate or foreign commerce" means the transportation of passengers or property between:~~

~~(1) A point in one state and a point in:~~

~~(I) Another state;~~

~~(II) A possession or territory of the United States; or~~

~~(III) A foreign country; or~~

~~(2) Points in the same state when such transportation consists of one or more segments of transportation that immediately follow movement of the property into the state from a point beyond its borders or immediately precede movement of the property from within the state to a point outside its borders.~~

~~(b) "State" includes the District of Columbia.~~

~~§ 374.263 Presumption that certain property delivered outside this State was not purchased for use in this State.~~



~~1. It is presumed that tangible personal property delivered outside this State to a purchaser was not purchased from a retailer for storage, use or other consumption in this State if the property:~~

~~(a) Was first used in interstate or foreign commerce outside this State; and~~  
~~(b) Is used continuously in interstate or foreign commerce, but not exclusively in this State, for at least 12 months after the date that the property was first used pursuant to paragraph (a).~~

~~2. As used in this section:~~

~~(a) "Interstate or foreign commerce" means the transportation of passengers or property between:~~

~~(1) A point in one state and a point in:~~

~~(I) Another state;~~

~~(II) A possession or territory of the United States; or~~

~~(III) A foreign country; or~~

~~(2) Points in the same state when such transportation consists of one or more segments of transportation that immediately follow movement of the property into the state from a point beyond its borders or immediately precede movement of the property from within the state to a point outside its borders.~~

~~(b) "State" includes the District of Columbia.]~~

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 82.

Bill read third time.

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

Amendment No. 647.

AN ACT relating to governmental administration; requiring the Chief of the Office of Information Security of the Department of Information Technology to investigate and resolve certain matters relating to security breaches of information systems of certain state agencies and elected officers; authorizing the Director of the Department or the Chief of the Office of Information Security to inform members of certain governmental entities of such security breaches; amending the membership and increasing certain terms of office of the Information Technology Advisory Board; revising the authority of the Department to provide services and equipment to local governmental agencies; requiring certain agencies and officers that use the equipment and information services of the Department to report certain incidents to the Office of Information Security; making various other changes

relating to governmental information systems; requiring the Chief of the Purchasing Division of the Department of Administration and local governments to publish certain advertisements for bids or proposals on their respective Internet websites; ~~authorizing the Chief to purchase and acquire services from a vendor who has entered into an agreement with the General Services Administration;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Section 4** of this bill requires the Chief of the Office of Information Security of the Department of Information Technology to investigate and resolve any security breach or unauthorized acquisition of computerized data that materially compromises the security, confidentiality or integrity of an information system of a state agency or elected officer that uses the equipment or services of the Department. **Section 4** also authorizes the Director to inform the members of certain boards and commissions of such security breaches and unauthorized acquisitions.

**Section 12** of this bill adds the Attorney General or his or her designee to and removes the Superintendent of Public Instruction or his or her designee from the membership of the Information Technology Advisory Board. **Section 12** also increases from one person to three persons the number of members who are appointed to the Board by the Governor as representatives of a city or county in this State and increases from 2 to 4 years the term of the members of the Board who are appointed by the Governor.

Under existing law, the Department is authorized to provide services to counties, cities and towns, and their agencies, if there are sufficient resources available. (NRS 242.141) **Section 13** of this bill authorizes the Department to provide services to those local governmental agencies if the provision of services would result in reduced costs to the State for equipment and services.

Under existing law, the Department is responsible for the information systems of state agencies and elected state officers that are required to use its services and equipment. (NRS 242.171) **Section 14** of this bill adds certain testing and monitoring of information systems to the duties of the Department.

Under existing law, all users of equipment or services of the Department are required to comply with certain regulations. (NRS 242.181) **Section 15** of this bill requires such users to report security-related noncompliance and unauthorized access to their information systems or applications of their information systems to the Office of Information Security of the Department within 24 hours after discovery.

Existing law requires the Chief of the Purchasing Division of the Department of Administration to publish advertisements for bids or proposals

for commodities or services in at least one newspaper of general circulation in the State. (NRS 333.310) **Section 20** of this bill requires the Chief to publish the advertisement on the Internet website of the Purchasing Division and in a newspaper.

~~¶ Section 21 of this bill authorizes the Chief of the Purchasing Division to purchase and acquire services from a vendor who has entered into an agreement with the General Services Administration.~~

Under existing law, local governments are required to publish advertisements for bids or proposals for purchasing and public works in a newspaper. (NRS 332.045, 338.1378, 338.1385, 338.143, 338.1692, 338.1723, 338.1907 and 496.090) **Sections 19 and ~~22-28~~ 26-28** of this bill require a local government to publish such advertisements on the Internet website of the local government, if the local government maintains an Internet website, in addition to publishing such advertisements in a newspaper.

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

**Section 1.** Chapter 242 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4, of this act.

**Sec. 2.** *“Local governmental agency” means any branch, agency, bureau, board, commission, department or division of a county, incorporated city or town in this State.*

**Sec. 3.** *“Security validation” means a process or processes used to ensure that an information system or a network associated with an information system is resistant to any known threat.*

**Sec. 4. 1.** *The Chief of the Office of Information Security shall investigate and resolve any breach of an information system of a state agency or elected officer that uses the equipment or services of the Department or an application of such an information system or unauthorized acquisition of computerized data that materially compromises the security, confidentiality or integrity of such an information system.*

**2.** *The Director or Chief of the Office of Information Security, at his or her discretion, may inform members of the Technological Crime Advisory Board created by NRS 205A.040, the Nevada Commission on Homeland Security created by NRS 239C.120 and the Information Technology Advisory Board created by NRS 242.122 of any breach of an information system of a state agency or elected officer or application of such an information system or unauthorized acquisition of computerized data that materially compromises the security, confidentiality or integrity of such an information system.*

**Sec. 5.** NRS 242.011 is hereby amended to read as follows:

242.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 242.015 to 242.068, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

**Sec. 6.** NRS 242.055 is hereby amended to read as follows:

242.055 “Information service” means any service relating to the creation, maintenance, operation, ***security validation, testing, continuous monitoring*** or use of an information system.

**Sec. 7.** NRS 242.057 is hereby amended to read as follows:

242.057 “Information system” means any communications or computer equipment, computer software, procedures, personnel or technology used to collect, process, distribute or store information. ~~{within the Executive Branch of State Government.}~~

**Sec. 8.** NRS 242.059 is hereby amended to read as follows:

242.059 “Information technology” means any information, information system or information service acquired, developed, operated, maintained or otherwise used. ~~{within the Executive Branch of State Government.}~~

**Sec. 9.** NRS 242.071 is hereby amended to read as follows:

242.071 1. The Legislature hereby determines and declares that the creation of the Department of Information Technology is necessary for the coordinated, orderly and economical processing of information in State Government, to ensure economical use of information systems and to prevent the unnecessary proliferation of equipment and personnel among the various state agencies.

2. The purposes of the Department are:

(a) To perform information services for state agencies.

(b) To provide technical advice but not administrative control of the information systems within the state agencies ~~{county agencies and governing bodies and agencies of incorporated cities and towns.}~~ ***and, as authorized, of local governmental agencies.***

**Sec. 10.** NRS 242.101 is hereby amended to read as follows:

242.101 1. The Director shall:

(a) Appoint the chiefs of the ~~{divisions}~~ ***Programming Division and the Communication and Computing Division of the Department who are*** in the unclassified service of the State;

(b) ***Appoint the Chief of the Office of Information Security who is in the classified service of the State;***

(c) Administer the provisions of this chapter and other provisions of law relating to the duties of the Department; and

~~{(c)}~~ (d) Carry out other duties and exercise other powers specified by law.

2. The Director may form committees to establish standards and determine criteria for evaluation of policies relating to informational services.

**Sec. 11.** ~~[NRS 242.105 is hereby amended to read as follows:~~

~~242.105 1. Except as otherwise provided in subsection 3, records and portions of records that are assembled, maintained, overseen or prepared by the Department or a local governmental agency to mitigate, prevent or respond to acts of terrorism, or to maintain the continuity of government and governmental services in the case of an act of terrorism, the public disclosure of which would, in the determination of the Director, create a substantial likelihood of threatening the safety of the general public are confidential and not subject to inspection by the general public to the extent that such records and portions of records consist of or include:~~

~~(a) Information regarding the infrastructure and security of information systems, including, without limitation:~~

~~(1) Access codes, passwords and programs used to ensure the security of an information system;~~

~~(2) Access codes used to ensure the security of software applications;~~

~~(3) Procedures and processes used to ensure the security of an information system; and~~

~~(4) Plans used to reestablish security and service with respect to an information system after security has been breached or service has been interrupted.~~

~~(b) Assessments and plans that relate specifically and uniquely to the vulnerability of such an information system or to the measures which will be taken to respond to such vulnerability, including, without limitation, any compiled underlying data necessary to prepare such assessments and plans.~~

~~(c) The results of tests of the security of such an information system, insofar as those results reveal specific vulnerabilities relative to the information system.~~

~~2. The Director shall maintain or cause to be maintained a list of each record or portion of a record that the Director has determined to be confidential pursuant to subsection 1. The list described in this subsection must be prepared and maintained so as to recognize the existence of each such record or portion of a record without revealing the contents thereof.~~

~~3. At least once each biennium, the Director shall review the list described in subsection 2 and shall, with respect to each record or portion of a record that the Director has determined to be confidential pursuant to subsection 1:~~

~~(a) Determine that the record or portion of a record remains confidential in accordance with the criteria set forth in subsection 1;~~

~~(b) Determine that the record or portion of a record is no longer confidential in accordance with the criteria set forth in subsection 1; or~~

~~(c) If the Director determines that the record or portion of a record is obsolete, cause the record or portion of a record to be disposed of in the manner described in NRS 239.073 to 239.125, inclusive.~~

~~4. On or before February 15 of each year, the Director shall:~~

~~(a) Prepare a report setting forth a detailed description of each record or portion of a record determined to be confidential pursuant to this section, if any, accompanied by an explanation of why each such record or portion of a record was determined to be confidential; and~~

~~(b) Submit a copy of the report to the Director of the Legislative Counsel Bureau for transmittal to:~~

~~(1) If the Legislature is in session, the standing committees of the Legislature which have jurisdiction of the subject matter; or~~

~~(2) If the Legislature is not in session, the Legislative Commission.~~

~~5. As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 239C.030.~~ **(Deleted by amendment.)**

**Sec. 12.** NRS 242.122 is hereby amended to read as follows:

242.122 1. There is hereby created an Information Technology Advisory Board. The Board consists of:

(a) One member appointed by the Majority Floor Leader of the Senate from the membership of the Senate Standing Committee on Finance . ~~{during the immediately preceding session of the Legislature.}~~

(b) One member appointed by the Speaker of the Assembly from the membership of the Assembly Standing Committee on Ways and Means . ~~{during the immediately preceding session of the Legislature.}~~

(c) Two representatives of using agencies which are major users of the services of the Department. The Governor shall appoint the two representatives. Each such representative serves for a term of ~~{2}~~ **4** years. For the purposes of this paragraph, an agency is a "major user" if it is among the top five users of the services of the Department, based on the amount of money paid by each agency for the services of the Department during the immediately preceding biennium.

(d) The Director of the Department of Administration or his or her designee.

~~(e) {The Superintendent of Public Instruction of the Department of Education or his or her designee.~~

~~(f) Three} **The Attorney General or his or her designee.**~~

~~(f) Five persons appointed by the Governor {in July of each odd numbered year} as follows:~~

(1) ~~{One person}~~ **Three persons** who ~~{represents}~~ **represent** a city or county in this State ~~{;}~~ **, at least one of whom is engaged in the information technology or information security;** and

(2) Two persons who represent the information technology industry but who:

- (I) Are not employed by this State;
- (II) Do not hold any elected or appointed office in State Government;
- (III) Do not have an existing contract or other agreement to provide information services, systems or technology to an agency of this State; and
- (IV) Are independent of and have no direct or indirect pecuniary interest in a corporation, association, partnership or other business organization which provides information services, systems or technology to an agency of this State.

2. Each person appointed pursuant to paragraph (f) of subsection 1 serves for a term of ~~{2}~~ 4 years. No person so appointed may serve more than 2 consecutive terms.

3. At the first regular meeting of each calendar year, the members of the Board shall elect a Chair by majority vote.

**Sec. 13.** NRS 242.141 is hereby amended to read as follows:

242.141 To facilitate the economical processing of data throughout the State Government, the Department may provide service for agencies not under the control of the Governor, upon the request of any such agency. ~~If there are sufficient resources available to the Department, it~~ **The Department** may provide services , **including, without limitation, purchasing services,** to ~~{counties, cities and towns and to their agencies.}~~ **a local governmental agency upon request, if provision of such services will result in reduced costs to the State for equipment and services.**

**Sec. 14.** NRS 242.171 is hereby amended to read as follows:

242.171 1. The Department is responsible for:

- (a) The applications of information systems;
- (b) Designing and placing those **information** systems in operation;
- (c) Any application of an information system which it furnishes to state agencies and officers after negotiation; and
- (d) The ~~{writing,}~~ **security validation,** testing , **including, without limitation, penetration testing,** and ~~{performance of programs,}~~ **continuous monitoring of information systems,**  
 ↪ for ~~{the state}~~ **using** agencies and ~~{elected state officers which are required to use its services.}~~ **for state agencies and officers which use the equipment or services of the Department pursuant to subsection 2 of NRS 242.131.**

2. The Director shall review and approve or disapprove, pursuant to standards for justifying cost, any application of an information system having an estimated developmental cost of \$50,000 or more. No using agency may commence development work on any such applications until approval and authorization have been obtained from the Director.

3. *As used in this section, “penetration testing” means a method of evaluating the security of an information system or application of an information system by simulating unauthorized access to the information system or application.*

**Sec. 15.** NRS 242.181 is hereby amended to read as follows:

242.181 1. Any state agency or elected state officer which uses the equipment or services of the Department shall adhere to the regulations, standards, practices, policies and conventions of the Department.

2. *Each state agency or elected state officer described in subsection 1 shall report any suspected incident of:*

(a) *Unauthorized access to an information system or application of an information system of the Department used by the state agency or elected state officer; and*

(b) *Noncompliance with the regulations, standards, practices, policies and conventions of the Department that is identified by the Department as security-related,*

*↪ to the Office of Information Security of the Department within 24 hours after discovery of the suspected incident. If the Office determines that an incident of unauthorized access or noncompliance occurred, the Office shall immediately report the incident to the Director. The Director shall assist in the investigation and resolution of any such incident.*

3. The Department shall provide services to each *state agency and elected state officer described in subsection 1* uniformly with respect to degree of service, priority of service, availability of service and cost of service.

**Sec. 16.** NRS 242.191 is hereby amended to read as follows:

242.191 1. Except as otherwise provided in subsection 3, the amount receivable from ~~from~~ *a state agency or officer or local governmental agency* ~~availing itself of~~ *which uses* the services of the Department must be determined by the Director in each case and include:

(a) The annual expense, including depreciation, of operating and maintaining the Communication and Computing Division, distributed among the agencies in proportion to the services performed for each agency.

(b) A service charge in an amount determined by distributing the monthly installment for the construction costs of the computer facility among the agencies in proportion to the services performed for each agency.

2. The Director shall prepare and submit monthly to the *state agencies and officers and local governmental* agencies for which services of the Department have been performed an itemized statement of the amount receivable from each *state agency or officer or local governmental* agency.

3. The Director may authorize, if in his or her judgment the circumstances warrant, a fixed cost billing, including a factor for



depreciation, for services rendered to ~~an~~ **a state agency or officer or local governmental** agency.

**Sec. 17.** NRS 242.231 is hereby amended to read as follows:

242.231 Upon the receipt of a statement submitted pursuant to subsection 2 of NRS 242.191, each **state agency or officer** shall authorize the State Controller by transfer or warrant to draw money from the agency's account in the amount of the statement for transfer to or placement in the Fund for Information Services.

**Sec. 18.** NRS 205.4765 is hereby amended to read as follows:

205.4765 1. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization:

- (a) Modifies;
- (b) Damages;
- (c) Destroys;
- (d) Discloses;
- (e) Uses;
- (f) Transfers;
- (g) Conceals;
- (h) Takes;
- (i) Retains possession of;
- (j) Copies;
- (k) Obtains or attempts to obtain access to, permits access to or causes to be accessed; or
- (l) Enters,

↪ data, a program or any supporting documents which exist inside or outside a computer, system or network is guilty of a misdemeanor.

2. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization:

- (a) Modifies;
- (b) Destroys;
- (c) Uses;
- (d) Takes;
- (e) Damages;
- (f) Transfers;
- (g) Conceals;
- (h) Copies;
- (i) Retains possession of; or
- (j) Obtains or attempts to obtain access to, permits access to or causes to be accessed,

↪ equipment or supplies that are used or intended to be used in a computer, system or network is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization:

- (a) Destroys;
- (b) Damages;
- (c) Takes;
- (d) Alters;
- (e) Transfers;
- (f) Discloses;
- (g) Conceals;
- (h) Copies;
- (i) Uses;
- (j) Retains possession of; or
- (k) Obtains or attempts to obtain access to, permits access to or causes to be accessed,

↪ a computer, system or network is guilty of a misdemeanor.

4. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization:

- (a) Obtains and discloses;
- (b) Publishes;
- (c) Transfers; or
- (d) Uses,

↪ a device used to access a computer, network or data is guilty of a misdemeanor.

5. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization introduces, causes to be introduced or attempts to introduce a computer contaminant into a computer, system or network is guilty of a misdemeanor.

6. If the violation of any provision of this section:

(a) Was committed to devise or execute a scheme to defraud or illegally obtain property;

(b) Caused response costs, loss, injury or other damage in excess of \$500;  
or

(c) Caused an interruption or impairment of a public service, including, without limitation, a governmental operation, a system of public communication or transportation or a supply of water, gas or electricity,

↪ the person is guilty of a category C felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$100,000. In addition to any other penalty, the court shall order the person to pay restitution.

**7. *The provisions of this section do not apply to a person performing any testing, including, without limitation, penetration testing, of an information system of an agency that uses the equipment or services of the***

***Department of Information Technology that is authorized by the Director of the Department of Information Technology or the chief of the Office of Information Security of the Department. As used in this subsection:***

***(a) "Information system" has the meaning ascribed to it in NRS 242.057.***

***(b) "Penetration testing" has the meaning ascribed to it in NRS 242.171.***

**Sec. 19.** NRS 332.045 is hereby amended to read as follows:

332.045 1. The advertisement required by paragraph (a) of subsection 1 of NRS 332.039 ~~must be published at least once and not less than 7 days before the opening of bids. The advertisement must~~ be by notice to bid and must be published ~~in~~ :

***(a) In a newspaper qualified pursuant to chapter 238 of NRS that has a general circulation within the county wherein the local government, or a major portion thereof, is situated ~~in~~ at least once and not less than 7 days before the opening of bids; and***

***(b) On the Internet website of the local government, if the local government maintains an Internet website, every day for not less than 7 days before the opening of bids.***

2. The notice must state:

(a) The nature, character or object of the contract.

(b) If plans and specifications are to constitute part of the contract, where the plans and specifications may be seen.

(c) The time and place where bids will be received and opened.

(d) Such other matters as may properly pertain to giving notice to bid.

**Sec. 20.** NRS 333.310 is hereby amended to read as follows:

333.310 1. An advertisement must contain a general description of the classes of commodities or services for which a bid or proposal is wanted and must state:

(a) The name and location of the department, agency, local government, district or institution for which the purchase is to be made.

(b) Where and how specifications and quotation forms may be obtained.

(c) If the advertisement is for bids, whether the Chief is authorized by the using agency to be supplied to consider a bid for an article that is an alternative to the article listed in the original request for bids if:

(1) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(2) The purchase of the alternative article results in a lower price; and

(3) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(d) Notice of the preference set forth in NRS 333.3366.

(e) The date and time not later than which responses must be received by the Purchasing Division.

(f) The date and time when responses will be opened.

↪ The Chief or a designated agent of the Chief shall approve the copy for the advertisement.

2. Each advertisement must be published ~~in~~ :

(a) *In* at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation ~~[-]~~ ; and

(b) *On the Internet website of the Purchasing Division.*

Sec. 21. ~~[NRS 333.480 is hereby amended to read as follows:~~

~~333.480 The Chief may purchase or acquire on behalf of the State of Nevada, and all officers, departments, institutions, boards, commissions, schools and other agencies in the Executive Department of the State Government, volunteer fire departments, local governments as defined in NRS 354.474, conservation districts or irrigation districts of the State of Nevada, any supplies, *services*, materials or equipment of any kind required or deemed advisable for the state officers, departments, institutions, boards, commissions, schools, volunteer fire departments and other agencies or local governments as defined in NRS 354.474, conservation districts or irrigation districts that may be available pursuant to an agreement with a vendor who has entered into an agreement with the General Services Administration or another governmental agency dealing in supplies, *services*, materials, equipment or donable surplus material if:~~

~~1. The prices for the supplies, *services*, materials or equipment negotiated in the agreement that the Chief enters into with the vendor are substantially similar to the prices for those supplies, *services*, materials or equipment that the vendor had negotiated with the General Services Administration or other governmental agency; and~~

~~2. The Chief determines that such an agreement would be in the best interests of the State.] (Deleted by amendment.)~~

Sec. 22. ~~[NRS 338.1378 is hereby amended to read as follows:~~

~~338.1378 1. Before a local government accepts applications pursuant to NRS 338.1379, the local government must ~~+~~ [-], in accordance with subsection 2, advertise in a newspaper that is:]~~

~~(a) *Publish an advertisement at least once and not less than 21 days before applications are to be submitted to the local government in a newspaper that is:*~~

~~(1) Qualified pursuant to the provisions of chapter 238 of NRS; and~~

~~[(b)] (2) Published in a county in which the contracts for the potential public works will be performed or, if no qualified newspaper is published in that county, published in a qualified newspaper that is published in the State of Nevada and which has a general circulation in the county in which the contracts for the potential public works will be performed.~~

~~(b) Post on the Internet website of the local government, if the local government maintains an Internet website, an advertisement every day for not less than 21 days before applications are to be submitted to the local government.~~

~~2. An advertisement required pursuant to subsection 1 [:~~

~~(a) Must be published at least once not less than 21 days before applications are to be submitted to the local government; and~~

~~(b) Must] must include:~~

~~[(1)] (a) A description of the potential public works for which applications to qualify as a bidder are being accepted;~~

~~[(2)] (b) The time and place at which applications are to be submitted to the local government;~~

~~[(3)] (c) The place at which applications may be obtained; and~~

~~[(4)] (d) Any other information that the local government deems necessary.] (Deleted by amendment.)~~

Sec. 23. ~~[NRS 338.1385 is hereby amended to read as follows:~~

~~338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:~~

~~(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises **on the Internet website of the county where the public work will be performed, if the county maintains an Internet website,** and in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.~~

~~(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 and, with respect to the State, NRS 338.1384 to 338.13847, inclusive.~~

~~(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).~~

~~2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.~~

~~3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.~~

~~4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.~~

~~5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.~~

~~6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:~~

~~(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;~~

~~(b) The bidder is not responsive or responsible;~~

~~(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or~~

~~(d) The public interest would be served by such a rejection.~~

~~7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:~~

~~(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;~~

~~(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);~~

~~(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and~~

~~(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.~~

~~8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:~~

~~(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;~~

~~(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;~~

~~(c) An estimate of the cost of administrative support for the persons assigned to the public work;~~

~~(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and~~

~~(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.~~

~~9. This section does not apply to:~~

~~(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;~~

~~(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;~~

~~(c) Normal maintenance of the property of a school district;~~

~~(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;~~

~~(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;~~

~~(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.} (Deleted by amendment.)~~

~~Sec. 24. [NRS 338.143 is hereby amended to read as follows:~~

~~338.143 1. Except as otherwise provided in subsection 8 and NRS 338.1907, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:~~

~~(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises *on the Internet website of the local government, if the local government maintains an Internet website, and in a newspaper* qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.~~

~~(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 and 338.1446.~~

~~(c) Divide a project work into separate portions to avoid the requirements of paragraph (a) or (b).~~

~~2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.~~

~~3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.~~

~~4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.~~

~~5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:~~

~~(a) The bidder is not responsive or responsible;~~

~~(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or~~

~~(c) The public interest would be served by such a rejection.~~

~~6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:~~

~~(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;~~

~~(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);~~

~~(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and~~

~~(d) The contract is awarded to the lowest responsive and responsible bidder.~~

~~7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:~~

~~(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;~~

~~(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;~~

~~(c) An estimate of the cost of administrative support for the persons assigned to the public work;~~



~~(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and~~

~~(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.~~

~~8. This section does not apply to:~~

~~(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;~~

~~(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;~~

~~(c) Normal maintenance of the property of a school district;~~

~~(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;~~

~~(e) The design and construction of a public work for which a public body contracts with a design build team pursuant to NRS 338.1711 to 338.1727, inclusive;~~

~~(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive. (Deleted by amendment.)~~

~~Sec. 25. [NRS 338.1692 is hereby amended to read as follows:~~

~~338.1692 1. A public body shall advertise for statements of qualifications for a construction manager at risk *on the Internet website of the public body, if the public body maintains an Internet website, and* in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.~~

~~2. A request for a statement of qualifications published pursuant to subsection 1 must include, without limitation:~~

~~(a) A description of the public work;~~

~~(b) An estimate of the cost of construction;~~

~~(c) A description of the work that the public body expects a construction manager at risk to perform;~~

~~(d) The dates on which it is anticipated that the separate phases of the preconstruction and construction of the public work will begin and end;~~

~~(e) The date by which statements of qualifications must be submitted to the public body;~~

~~(f) If the project is a public work of the State, a statement setting forth that the construction manager at risk must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a statement of qualifications;~~

~~(g) The name, title, address and telephone number of a person employed by the public body that an applicant may contact for further information regarding the public work; and~~

~~(h) A list of the selection criteria and relative weight of the selection criteria that will be used to evaluate statements of qualifications.~~

~~3. A statement of qualifications must include, without limitation:~~

~~(a) An explanation of the experience that the applicant has with projects of similar size and scope;~~

~~(b) The contact information for references who have knowledge of the background, character and technical competence of the applicant;~~

~~(c) The applicant's preliminary proposal for managing the preconstruction and construction of the public work;~~

~~(d) Evidence of the ability of the applicant to obtain the necessary bonding for the work to be required by the public body;~~

~~(e) Evidence that the applicant has obtained or has the ability to obtain such insurance as may be required by law; and~~

~~(f) A statement of whether the applicant has been:~~

~~(1) Found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause; and~~

~~(2) Disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.223.~~ **(Deleted by amendment.)**

**Sec. 26.** NRS 338.1723 is hereby amended to read as follows:

338.1723 1. A public body shall advertise for preliminary proposals for the design and construction of a public work by a design-build team. ~~for the Internet website of the public body, if the public body maintains an Internet website, and in~~ **The advertisement must be published:**

**(a) In a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed, at least once and not less than 7 days before the opening of bids; and**

**(b) On the Internet website of the public body, if the public body maintains an Internet website, every day for not less than 7 days before the opening of bids.**

↪ If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

2. A request for preliminary proposals published pursuant to subsection 1 must include, without limitation:

- (a) A description of the public work to be designed and constructed;
- (b) An estimate of the cost to design and construct the public work;
- (c) The dates on which it is anticipated that the separate phases of the design and construction of the public work will begin and end;
- (d) The date by which preliminary proposals must be submitted to the public body;
- (e) If the proposal is for a public work of the State, a statement setting forth that the prime contractor must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a preliminary proposal;
- (f) A description of the extent to which designs must be completed for both preliminary and final proposals and any other requirements for the design and construction of the public work that the public body determines to be necessary;
- (g) A list of the requirements set forth in NRS 338.1721;
- (h) A list of the factors and relative weight assigned to each factor that the public body will use to evaluate design-build teams who submit a proposal for the public work;
- (i) Notice that a design-build team desiring to submit a proposal for the public work must include with its proposal the information used by the public body to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of NRS 338.1725 and a description of that information; and
- (j) A statement as to whether a design-build team that is selected as a finalist pursuant to NRS 338.1725 but is not awarded the design-build contract pursuant to NRS 338.1727 will be partially reimbursed for the cost of preparing a final proposal and, if so, an estimate of the amount of the partial reimbursement.

**Sec. 27.** NRS 338.1907 is hereby amended to read as follows:

338.1907 1. A governing body may designate one or more energy retrofit coordinators for the buildings occupied by the local government.

2. If such a coordinator is designated, upon request by or consultation with an officer or employee of the local government who is responsible for the budget of a department, board, commission or other entity of the local government, the coordinator may request the approval of the governing body to advertise a request for proposals to retrofit a building, or any portion thereof, that is occupied by the department, board, commission or other entity, to make the use of energy in the building, or portion thereof, more efficient.

3. Upon approval of the governing body, the coordinator shall prepare a request for proposals for the retrofitting of one or more buildings, or any portion thereof, which includes:

- (a) The name and location of the coordinator;
- (b) A brief description of the requirements for the initial audit of the use of energy and the retrofitting;
- (c) Where and how specifications of the requirements for the initial audit of the use of energy and the retrofitting may be obtained;
- (d) The date and time not later than which proposals must be received by the coordinator; and
- (e) The date and time when responses will be opened.

4. The request for proposals must be published ~~for~~ :

**(a) On the Internet website of the governing body, if the governing body maintains an Internet website, every day for not less than 7 days before the opening of bids; and ~~in~~**

**(b) In a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed ~~in~~ at least once and not less than 7 days before the opening of bids.**

↪ If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county where the public work will be performed.

5. After receiving the proposals but before making a decision on the proposals, the coordinator shall consider:

- (a) The best interests of the local government;
- (b) The experience and financial stability of the persons submitting the proposals;
- (c) Whether the proposals conform with the terms of the request for proposals;
- (d) The prices of the proposals; and
- (e) Any other factor disclosed in the request for proposals.

6. The coordinator shall determine the relative weight of each factor before a request for proposals is advertised. The weight of each factor must not be disclosed before the date proposals are required to be submitted to the coordinator.

7. After reviewing the proposals, if the coordinator determines that the dollar value of the annual energy savings resulting from the retrofit will meet or exceed the total annual contract payments to be made by the local government, including any financing charges to be incurred by the local government over the life of the contract, the coordinator shall select the best proposal and request the approval of the governing body to award the contract. The request for approval must include the proposed method of financing the audit and retrofit, which may include an installment contract, a shared savings contract or any other contract for a reasonable financing arrangement. Such a contract may commit the local government to make

payments beyond the fiscal year in which the contract is executed or beyond the terms of office of the governing body, or both.

8. Before approving a retrofit pursuant to this section, the governing body shall evaluate any projects that would utilize shared savings as a method of payment or any method of financing that would commit the local government to make payments beyond the fiscal year in which the contract is executed or beyond the terms of office of the governing body to ensure that:

(a) The dollar value of the annual energy savings resulting from the retrofit will meet or exceed the total annual contract payments to be made by the local government related to the retrofit, including any financing charges to be incurred by the local government over the life of the contract; and

(b) The local government is likely to continue to occupy the building for the entire period required to recoup the cost of the retrofit in energy savings.

9. Upon approval of the governing body, the coordinator shall execute the contract and notify each officer or employee who is responsible for the budget of a department, board, commission or other entity which occupies a portion of a building that will be retrofitted of the amount of money it will be required to pay annually for its portion of the retrofit.

10. A change order to a contract executed pursuant to this section may not be approved by the local government if the cost of the change order would cause the dollar value of the annual energy savings resulting from the retrofit to be less than the total annual contract payments to be made by the local government, including financing charges to be incurred by the local government over the life of the contract, unless approval of the change order is more economically feasible than termination of the retrofit.

11. NRS 338.1385 and 338.143 do not apply to a project for which a request for proposals is advertised and the contract is awarded pursuant to the provisions of this section.

**Sec. 28.** NRS 496.090 is hereby amended to read as follows:

496.090 1. In operating an airport or air navigation facility or any other facilities appertaining to the airport owned, leased or controlled by a municipality, the municipality may, except as limited by the terms and conditions of any grant, loan or agreement pursuant to NRS 496.180, enter into:

(a) Contracts, leases and other arrangements with any persons:

(1) Granting the privilege of using or improving the airport or air navigation facility, or any portion or facility thereof, or space therein, for commercial purposes. The municipality may, if it determines that an improvement benefits the municipality, reimburse the person granted the privilege for all or any portion of the cost of making the improvement.

(2) Conferring the privilege of supplying goods, commodities, things, services or facilities at the airport or air navigation facility or other facilities.

(3) Making available services to be furnished by the municipality or its agents or by other persons at the airport or air navigation facility or other facilities.

(4) Providing for the maintenance of the airport or air navigation facility, or any portion or facility thereof, or space therein.

(5) Allowing residential occupancy of property acquired by the municipality.

(b) Contracts for the sale of revenue bonds or other securities whose issuance is authorized by the Local Government Securities Law or NRS 496.150 or 496.155, for delivery within 10 years after the date of the contract.

2. In each case the municipality may establish the terms and conditions and fix the charges, rentals or fees for the privileges or services, which must be reasonable and uniform for the same class of privilege or service and must be established with due regard to the property and improvements used and the expenses of operation to the municipality.

3. Except as otherwise provided in this subsection, and as an alternative to the procedure provided in subsection 2 of NRS 496.080, to the extent of its applicability, the governing body of any municipality may authorize it to enter into any such contracts, leases and other arrangements with any persons, as provided in this section, for a period not exceeding 50 years, upon such terms and conditions as the governing body deems proper. The provisions of this subsection must not be used to circumvent the requirement set forth in subsection 2 of NRS 496.080 that the disposal of real property be made by public auction.

4. Before entering into any such contract, lease or other arrangements, the municipality shall publish notice of its intention in general terms *on the Internet website of the municipality, if the municipality maintains an Internet website, for a period of not less than 10 consecutive days, and* in a newspaper of general circulation within the municipality at least once a week for 21 days or three times during a period of 10 days. If there is not a newspaper of general circulation within the municipality, the municipality shall post a notice of its intention in a public place at least once a week for 30 days. The notice must specify that a regular meeting of the governing body is to be held, at which meeting any interested person may appear. No such contract, lease or other arrangement may be entered into by the municipality until after the notice has been given and a meeting held as provided in this subsection.

5. Any member of a municipality's governing body may vote on any such contract, lease or other arrangement notwithstanding the fact that the term of the contract, lease or other arrangement may extend beyond the member's term of office.

**Sec. 29.** Notwithstanding the provisions of NRS 242.122, as amended by section 12 of this act, the existing members of the Information Technology Advisory Board who are appointed to 2-year terms by the Governor pursuant to NRS 242.122 may continue to serve as a member of the Board until the expiration of their current terms and until the Governor appoints successors to 4-year terms pursuant to NRS 242.122, as amended by section 12 of this act. If a position on the Board becomes vacant on or after July 1, 2011, the vacancy must be filled in the manner provided in NRS 242.122, as amended by section 12 of this act.

**Sec. 30.** This act becomes effective on July 1, 2011.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 384.

Bill read third time.

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

Amendment No. 650.

SUMMARY—Authorizes the governing body of ~~the~~ certain local ~~government~~ governments to adopt procedures for the sale of naming rights to certain public facilities. (BDR ~~(28-172)~~ 20-172)

AN ACT relating to public facilities; authorizing the governing body of a ~~local government~~ county or city to adopt procedures for the sale of the naming rights to certain parks, recreational facilities and other public facilities owned by the ~~local government~~ county or city; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners in a county whose population is 400,000 or more (currently Clark County) to adopt, by ordinance, procedures for the sale of naming rights relating to a shooting range that is owned by the county. (NRS 244.30701) This bill authorizes the governing body of a ~~local government (including counties, cities, towns, school districts and general improvement districts)~~ county or city, with limited exceptions, to adopt, by ordinance, procedures for the sale of the naming rights to a park, recreational facility or other public facility owned by the ~~local government~~ county or city.

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

**Section 1.** Chapter ~~238~~ 244 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, the ~~governing body of a local government~~ board of county commissioners may adopt, by ordinance, procedures for the sale of naming rights to a park, recreational facility or other public facility that is owned by the ~~local government~~ county, including, without limitation, the sale of naming rights to:*

*(a) Buildings, improvements, facilities, features, fixtures and sites located within the boundaries of the park, recreational facility or other public facility; and*

*(b) Activities, events and programs held at the park, recreational facility or other public facility.*

*2. In adopting an ordinance pursuant to subsection 1, a ~~governing body~~ board of county commissioners shall not ~~authorize~~ ;*

*(a) Authorize the sale of naming rights to any park, recreational facility or other public facility which is:*

~~[(a)]~~ *(1) Subject to a lease agreement authorizing the lessee to sell such naming rights; or*

~~[(b)]~~ *(2) Currently named after a person of historical significance.*

*(b) Delegate authority to make a decision regarding the sale of naming rights that is authorized pursuant to this section to any department, division, agency or employee of the county.*

*3. As used in this section:*

*(a) ~~“Local government” means any political subdivision of this State, including, without limitation, a county, city, town, school district, general improvement district or other district which performs a governmental function.~~*

~~[(b)]~~ *“Park” means real property and any improvements made thereon that are designed to serve the cultural, leisure, recreational and outdoor needs of natural persons.*

~~[(c)]~~ *(b) “Public facility” means any facility, including, without limitation, real or personal property, which is owned by a ~~local government~~*

~~[(d)]~~ *county.*

*(c) “Recreational facility” means real and personal property and improvements to real property for athletic, cultural and leisure activities and all appurtenances or customary facilities and uses associated therewith.*

**Sec. 2.** Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, the governing body of a city may adopt, by ordinance, procedures for the sale of naming rights to*



a park, recreational facility or other public facility that is owned by the city, including, without limitation, the sale of naming rights to:

(a) Buildings, improvements, facilities, features, fixtures and sites located within the boundaries of the park, recreational facility or other public facility; and

(b) Activities, events and programs held at the park, recreational facility or other public facility.

2. In adopting an ordinance pursuant to subsection 1, a governing body shall not:

(a) Authorize the sale of naming rights to any park, recreational facility or other public facility which is:

(1) Subject to a lease agreement authorizing the lessee to sell such naming rights; or

(2) Currently named after a person of historical significance.

(b) Delegate authority to make a decision regarding the sale of naming rights that is authorized pursuant to this section to any department, division, agency or employee of the city.

3. As used in this section:

(a) "Park" means real property and any improvements made thereon that are designed to serve the cultural, leisure, recreational and outdoor needs of natural persons.

(b) "Public facility" means any facility, including, without limitation, real or personal property, which is owned by a city.

(c) "Recreational facility" means real and personal property and improvements to real property for athletic, cultural and leisure activities and all appurtenances or customary facilities and uses associated therewith.

~~{Sec. 2.}~~ Sec. 3. This act becomes effective on July 1, 2011.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 472.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 781.

AN ACT making a supplemental appropriation to the Department of Corrections to cover stale claims for prison medical care for Fiscal Year 2007-2008; and providing other matters properly relating thereto.

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

**Section 1.** There is hereby appropriated from the State General Fund to the Department of Corrections the sum of \$9,579 to cover stale claims for **personnel expenditures for** prison medical care for Fiscal Year 2007-2008. This appropriation is supplemental to that made in section 23 of chapter 388, Statutes of Nevada 2009, at page 2111.

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

Assemblyman Hickey 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 Bills Nos. 332, 432, 515, 563; Senate Bills Nos. 36, 55, 57, 65, 110, 133, 140, 151, 159, 187, 238, 251, 282, 304, 321, 329, 348, 376, 381, 400, 419 be taken from their position on the General File and placed at the top of the General File.

Motion carried.

REPORTS OF COMMITTEES

*Mr. Speaker:*

Your Committee on Government Affairs, to which was referred Senate Bill No. 268, 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*

GENERAL FILE AND THIRD READING

Senate Bill No. 268.

Bill read third time.

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

Amendment No. 833.

SUMMARY—Revises provisions relating to ~~competing for~~ public works ~~by design professionals.~~ (BDR 28-740)

AN ACT relating to public works; revising provisions relating to preferences when competing for contracts for certain public works projects; **requiring a contractor to replace an unacceptable subcontractor on a public work of this State without an increase in the amount of the bid; requiring a prime contractor to forfeit a portion of the amount of a contract for a public work under certain circumstances; revising the manner in which a construction manager at risk may solicit bids and select a subcontractor for a public work; revising provisions governing**

**the selection of a construction manager at risk for preconstruction services and the construction of a public work; revising the manner in which a construction manager at risk may solicit bids and select a subcontractor for a public work;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a contract for a public work involving a design-build team is awarded by a public body based on the application of certain criteria. A design-build team may qualify for a preference in bidding on such a contract if the contractor on the design-build team has submitted proof to the State Contractors' Board that the contractor has paid certain taxes to the State for the past 5 years. (NRS 338.1389, 338.147, 338.1727, 408.3886)

**Section ~~14~~ 2** of this bill allows a person who holds a certificate of registration to engage in the practice of architecture or landscape architecture or who holds a license as a professional engineer or professional land surveyor to qualify for a preference when competing for public works if the person has submitted proof to the appropriate licensing board that the person has paid certain taxes to the State for the past ~~5~~ 3 years. **Sections ~~14~~ 26 and ~~17~~ 31** of this bill allow a design-build team to receive a preference in selection as a finalist for a public work or a project for the construction, reconstruction or improvement of a highway if both the contractor and the design professionals on the design-build team possess a certificate of eligibility to receive their respective preferences. **Sections ~~15~~ 28 and ~~18~~ 32** of this bill allow a design-build team that has been selected as a finalist for a public work or a project for the construction, reconstruction or improvement of a highway to receive a preference in selection for a contract only if both the contractor and the design professionals on the design-build team possess a certificate of eligibility to receive their respective preferences. **Section ~~19~~ 33** of this bill allows an architect, professional engineer or professional land surveyor to receive a preference in selection for certain public works if the architect, professional engineer or professional land surveyor possesses a certificate of eligibility to receive a preference when competing for public works.

Existing law provides that a public body which selects a design-build team as a finalist in the selection process for a contract for a public work must make public specified information concerning the design-build team and its selection. (NRS 338.1725) **Section ~~17~~ 31** of this bill adds a similar requirement for the Department of Transportation to make public specified information concerning a design-build team and the selection of that design-build team as a finalist in the selection process for a contract for a project for the construction, reconstruction or improvement of a highway. **Section ~~13~~ 16** of this bill requires that a public body must, after selecting but before

entering into a contract with a design professional who is not a member of a design-build team, transmit certain information concerning the selection of the design profession to the licensing board that regulates the design professional. That licensing board must post the information on its Internet website.

Before a contract for a public work of this State is awarded, existing law requires a contractor to replace a subcontractor that is named in the contractor's bid for the contract if the subcontractor is not properly licensed or has been disqualified from participating in public works sponsored by the State Public Works Board. (NRS 338.13895) Section 12 of this bill requires the contractor to replace such a subcontractor without an increase in the amount of the bid. This same requirement currently applies with respect to the replacement of a subcontractor named in a bid for a contract for a public work of a local government if the subcontractor is not properly licensed. (NRS 338.13895)

Under existing law, a contractor is required to list in his or her bid for a public work the names of certain subcontractors who will be performing work on the public work if the contractor is awarded the contract. Existing law sets forth requirements with which a prime contractor who is awarded the contract must comply to substitute a subcontractor for another subcontractor. (NRS 338.141) If a prime contractor does not comply with the requirements related to the substitution of subcontractors, section 13 of this bill requires the prime contractor to forfeit 1 percent of the contract amount as a penalty.

Existing law also requires a contractor to include his or her name on a bid for a public work if, as the prime contractor, the contractor will perform a portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work. (NRS 338.141) Section 13 of this bill requires a prime contractor to forfeit a specified amount as a penalty if the prime contractor substitutes a subcontractor to perform the work that the prime contractor indicated on the bid that the prime contractor or another subcontractor would perform.

In order for a subcontractor to be eligible to provide materials, equipment, work or other services on a public work for which a construction manager at risk was awarded a contract, existing law requires the subcontractor to be licensed and to be selected based on a process of competitive bidding set forth for all subcontractors on any public work in the State. (NRS 338.1699) Sections 4 and 5 of this bill changes the manner in which a construction manager at risk selects subcontractors and sets forth specific procedures a construction manager at risk must follow when selecting subcontractors to provide

materials, equipment, work or other services on a public work for which the construction manager at risk was awarded a contract.

Existing law authorizes a public body to construct a public work by selecting a construction manager at risk and sets forth certain procedures the public body must follow when selecting the construction manager at risk and entering into a contract with him or her for preconstruction services or to construct the public work. (NRS 338.169-338.1699) Sections 18-22 of this bill amend the provisions governing the way in which a public body must select a construction manager at risk. Existing law provides for a two-step selection process, wherein construction managers at risk must first submit a statement of qualifications, and then the public body selects finalists who are requested to submit final proposals and are interviewed before one is chosen to be awarded the contract. (NRS 338.1692-338.1695) Instead, sections 20 and 21 of this bill change the process to a single step: a construction manager at risk submits a proposal from the start, which contains a combination of the statement of qualifications and any material existing law required to be included in a final proposal, and the public body chooses which applicants to interview and which to select from those proposals. Section 22 of this bill allows a public body to enter into negotiations with the construction manager at risk who is providing the preconstruction services for the construction of a portion of the public work as soon as that portion of the design is finalized instead of waiting until the complete design is finished, as is currently required by existing law. In addition, section 22 allows the construction manager at risk providing preconstruction services to bid on the project if negotiations for the contract fail and the public body opens it up for bids.

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

**Section 1.** Chapter 338 of NRS is hereby amended by adding thereto ~~for a new section to read as follows:~~ the provisions set forth as sections 2 to 5, inclusive, of this act.

*Sec. 2. 1. The State Board of Architecture, Interior Design and Residential Design shall issue a certificate of eligibility to receive a preference when competing for public works to a person who holds a certificate of registration to engage in the practice of architecture pursuant to the provisions of chapter 623 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the person has, while holding a certificate of registration to engage in the practice of architecture in this State:*

*(a) Paid directly, on his or her own behalf the excise tax imposed upon an employer by NRS 363B.110 of not less than \$1,500 for each consecutive 12-month period for ~~60~~ 36 months immediately preceding the submission of the affidavit from the certified public accountant; or*

*(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in the practice of architecture that:*

*(1) Satisfies the requirements of NRS 623.350; and*

*(2) Possesses a certificate of eligibility to receive a preference when competing for public works.*

*2. The State Board of Landscape Architecture shall issue a certificate of eligibility to receive a preference when competing for public works to a person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to the provisions of chapter 623A of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the person has, while holding a certificate of registration to engage in the practice of landscape architecture in this State:*

*(a) Paid directly, on his or her own behalf the excise tax imposed upon an employer by NRS 363B.110 of not less than \$1,500 for each consecutive 12-month period for ~~60~~ 36 months immediately preceding the submission of the affidavit from the certified public accountant; or*

*(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in the practice of landscape architecture that:*

*(1) Satisfies the requirements of NRS 623A.250; and*

*(2) Possesses a certificate of eligibility to receive a preference when competing for public works.*

*3. The State Board of Professional Engineers and Land Surveyors shall issue a certificate of eligibility to receive a preference when competing for public works to a professional engineer or professional land surveyor who is licensed pursuant to the provisions of chapter 625 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the professional engineer or professional land surveyor has, while licensed as a professional engineer or professional land surveyor in this State:*

*(a) Paid directly, on his or her own behalf the excise tax imposed upon an employer by NRS 363B.110 of not less than \$1,500 for each consecutive 12-month period for ~~60~~ 36 months immediately preceding the submission of the affidavit from the certified public accountant; or*

*(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in engineering or land surveying that:*

*(1) Satisfies the requirements of NRS 625.407; and*

*(2) Possesses a certificate of eligibility to receive a preference when competing for public works.*

*4. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 1, paragraph (a) of subsection 2 and paragraph (a) of subsection 3, a person shall be deemed to have paid:*

*(a) The excise tax imposed upon an employer by NRS 363B.110 by an affiliate or parent company of the person, if the affiliate or parent company also satisfies the requirements of NRS 623.350, 623A.250 or 625.407, as applicable; and*

*(b) The excise tax imposed upon an employer by NRS 363B.110 by a joint venture in which the person is a participant, in proportion to the amount of interest the person has in the joint venture.*

*5. A design professional who has received a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 must, at the time for the renewal of his or her professional license or certificate of registration, as applicable, pursuant to chapter 623, 623A or 625 of NRS, submit to the applicable licensing board an affidavit from a certified public accountant setting forth that the design professional has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 1, paragraph (a) of subsection 2 or paragraph (a) of subsection 3, as applicable, to maintain eligibility to hold such a certificate.*

*6. A design professional who fails to submit an affidavit to the applicable licensing board pursuant to subsection 5 ceases to be eligible to receive a preference when competing for public works unless the design professional reapplies for and receives a certificate of eligibility pursuant to subsection 1, 2 or 3, as applicable.*

*7. If a design professional holds more than one license or certificate of registration, the design professional must submit a separate application for each license or certificate of registration pursuant to which the design professional wishes to qualify for a preference when competing for public works. Upon issuance, the certificate of eligibility to receive a preference when competing for public works becomes part of the design professional's license or certificate of registration for which the design professional submitted the application.*

*8. If a design professional who applies to a licensing board for a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 submits false information to the licensing board regarding the required payment of taxes, the design professional is not eligible to receive a preference when competing for*

*public works for a period of 5 years after the date on which the licensing board becomes aware of the submission of the false information.*

*9. The State Board of Architecture, Interior Design and Residential Design, the State Board of Landscape Architecture and the State Board of Professional Engineers and Land Surveyors shall adopt regulations and may assess reasonable fees relating to their respective certification of design professionals for a preference when competing for public works.*

*10. A person or entity who believes that a design professional wrongfully holds a certificate of eligibility to receive a preference when competing for public works may challenge the validity of the certificate by filing a written objection with the public body which selected, for the purpose of providing services for a public work, the design professional who holds the certificate. A written objection authorized pursuant to this subsection must:*

*(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the design professional wrongfully holds a certificate of eligibility to receive a preference when competing for public works; and*

*(b) Be filed with the public body not later than 3 business days after:*

*(1) The date on which the public body makes available to the public pursuant to subsection 3 of NRS 338.1725 the information required by that subsection, if the design-build team of which the design professional who holds the certificate is a part was selected as a finalist pursuant to NRS 338.1725;*

*(2) The date on which the Department of Transportation makes available to the public pursuant to subsection 3 of NRS 408.3885 the information required by that subsection, if the design-build team of which the design professional who holds the certificate is a part was selected as a finalist pursuant to NRS 408.3885; or*

*(3) The date on which the licensing board which issued the certificate to the design professional posted on its Internet website the information required by subsection 3 of NRS 338.155, if the design professional is identified in that information as being selected for a contract governed by NRS 338.155.*

*11. If a public body receives a written objection pursuant to subsection 10, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the design*



*professional qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.*

*Sec. 3. 1. Notwithstanding the provisions of sections 4 and 5 of this act, and subject to the provisions of subsection 2, if a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to NRS 338.1693, the construction manager at risk may enter into a contract with a subcontractor licensed pursuant to chapter 624 of NRS to provide any of the following preconstruction services, the basis of payment for which is a negotiated price:*

*(a) Assisting the construction manager at risk in identifying and selecting materials and equipment to be provided by each subcontractor;*

*(b) Assisting the construction manager at risk in creating a schedule for the provision of labor, materials or equipment by each subcontractor;*

*(c) For the purpose of enabling the construction manager at risk to establish a budget for the construction of the public work, estimating the cost of labor, materials or equipment to be provided by each subcontractor; and*

*(d) Providing recommendations to the construction manager at risk regarding the design for the public work, as the design pertains to the labor, materials or equipment to be provided by each subcontractor.*

*2. A subcontractor may not provide preconstruction services pursuant to this section in an area of work outside the field or scope of the license of the subcontractor.*

*Sec. 4. 1. To be eligible to provide labor, materials or equipment on a public work, the contract for which a public body has entered into with a construction manager at risk pursuant to NRS 338.1696, a subcontractor must be:*

*(a) Licensed pursuant to chapter 624 of NRS; and*

*(b) Qualified pursuant to the provisions of this section to submit a proposal for the provision of labor, materials or equipment on a public work.*

*2. Subject to the provisions of subsections 3, 4 and 5, the construction manager at risk shall determine whether an applicant is qualified to submit a proposal for the provision of labor, materials or equipment on the public work for the purposes of paragraph (b) of subsection 1.*

*3. After the design and schedule for the construction of the public work is sufficiently detailed and complete to allow a subcontractor to apply to qualify to submit a meaningful and responsive proposal for the provision of labor, materials or equipment on the public work, and not later than 21 days before the date by which such an application must be submitted, the construction manager at risk shall advertise for such applications in a*

newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

4. The criteria to be used by the construction manager at risk when determining whether an applicant is qualified to submit a proposal for the provision of labor, materials or equipment must include, and must be limited to:

(a) The monetary limit placed on the license of the applicant by the State Contractors' Board pursuant to NRS 624.220;

(b) The financial ability of the applicant to provide the labor, materials or equipment required on the public work;

(c) Whether the applicant has the ability to obtain the necessary bonding for the work required by the public body;

(d) The safety programs established and the safety records accumulated by the applicant;

(e) Whether the applicant has breached any contracts with a public body or person in this State or any other state during the 5 years immediately preceding the application;

(f) Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the applicant to perform the public work;

(g) The performance history of the applicant concerning other recent, similar public or private contracts, if any, completed by the applicant in Nevada;

(h) The principal personnel of the applicant;

(i) Whether the applicant has been disqualified from the award of any contract pursuant to NRS 338.017 or 338.13895; and

(j) The truthfulness and completeness of the application.

5. The public body or its authorized representative shall ensure that each determination made pursuant to subsection 2 is made subject to the provisions of subsection 4.

6. The construction manager at risk shall notify each applicant and the public body in writing of a determination made pursuant to subsection 2.

7. A determination made pursuant to subsection 2 that an applicant is not qualified may be appealed pursuant to NRS 338.1381 to the public body with whom the construction manager at risk has entered into a contract for the construction of the public work.

Sec. 5. 1. If a public body enters into a contract with a construction manager at risk for the construction of a public work pursuant to NRS

338.1696, the construction manager at risk may enter into a subcontract for the provision of labor, materials and equipment necessary for the construction of the public work only as provided in this section.

2. The provisions of this section apply only to a subcontract for which the estimated value is at least 1 percent of the total cost of the public work.

3. After the design and schedule for the construction of the public work is sufficiently detailed and complete to allow a subcontractor to submit a meaningful and responsive proposal, and not later than 21 days before the date by which a proposal for the provision of labor, materials or equipment by a subcontractor must be submitted, the construction manager at risk shall notify in writing each subcontractor who was determined pursuant to section 4 of this act to be qualified to submit such a proposal of a request for such proposals. A copy of the notice required pursuant to this subsection must be provided to the public body.

4. The notice required pursuant to subsection 3 must include, without limitation:

(a) A description of the design for the public work and a statement indicating where a copy of the documents relating to that design may be obtained;

(b) A description of the type and scope of labor, equipment and materials for which subcontractor proposals are being sought;

(c) The dates on which it is anticipated that construction of the public work will begin and end;

(d) The date, time and place at which a preproposal meeting will be held;

(e) The date and time by which proposals must be received, and to whom they must be submitted;

(f) The date, time and place at which proposals will be opened for evaluation;

(g) A description of the bonding and insurance requirements for subcontractors;

(h) Any other information reasonably necessary for a subcontractor to submit a responsive proposal; and

(i) A statement in substantially the following form:

Notice: For a proposal for a subcontract on the public work to be considered:

1. The subcontractor must be licensed pursuant to chapter 624 of NRS;

2. The proposal must be timely received;

3. The subcontractor must attend the preproposal meeting; and

4. The subcontractor may not modify the proposal after the date and time the proposal is received.

5. A subcontractor may not modify a proposal after the date and time the proposal is received.

6. To be considered responsive, a proposal must:

(a) Be timely received by the construction manager at risk; and

(b) Substantially and materially conform to the details and requirements included in the proposal instructions and for the finalized bid package for the public work, including, without limitation, details and requirements affecting price and performance.

7. The opening of the proposals must be attended by an authorized representative of the public body and the architect or engineer responsible for the design of the public work but is not otherwise open to the public.

8. At the time the proposals are opened, the construction manager at risk shall compile and provide to the public body or its authorized representative a list that includes, without limitation, the name and contact information of each subcontractor who submits a timely proposal and the price of the proposal submitted by the subcontractor. The list must be made available to the public upon request.

9. Not less than 10 working days after opening the proposal, the construction manager at risk shall:

(a) Evaluate the proposals and determine which proposals are responsive.

(b) Select the subcontractor who submits the proposal that the construction manager at risk determines is the best proposal. The subcontractor must be selected from among those:

(1) Who attended the preproposal meeting;

(2) Who submitted a responsive proposal; and

(3) Whose names are included on the list compiled and provided to the public body or its authorized representative pursuant to subsection 8.

(c) Inform the public body or its authorized representative which subcontractor has been selected.

10. The public body or its authorized representative shall ensure that the evaluation of proposals and selection of subcontractors are done pursuant to the provisions of this section and regulations adopted by the State Public Works Board.

11. A subcontractor selected pursuant to subsection 9 need not be selected by the construction manager at risk solely on the basis of lowest price.

12. Except as otherwise provided in subsection 13, the construction manager at risk shall enter into a subcontract with a subcontractor selected pursuant to subsection 9 to provide the labor, materials or equipment described in the request for proposals.

13. A construction manager at risk shall not substitute a subcontractor for any subcontractor selected pursuant to subsection 9 unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change; or

(b) The substitution is approved by the public body after the selected subcontractor:

(1) Files for bankruptcy or becomes insolvent;

(2) After having a reasonable opportunity, fails or refuses to execute a written contract with the construction manager at risk which was offered to the selected subcontractor with the same general terms that all other subcontractors on the project were offered;

(3) Fails or refuses to perform the subcontract within a reasonable time;

(4) Is unable to furnish a performance bond and payment bond pursuant to NRS 339.025, if required for the public work; or

(5) Is not properly licensed to provide that labor or portion of the work.

14. The construction manager at risk shall make available to the public, including, without limitation, each subcontractor who submits a proposal, the final rankings of the subcontractors and shall provide, upon request, an explanation to any subcontractor who is not selected of the reasons why the subcontractor was not selected.

15. If a public work is being constructed in phases, and a construction manager at risk selects a subcontractor pursuant to subsection 9 for the provision of labor, materials or equipment for any phase of that construction, the construction manager at risk may select that subcontractor for the provision of labor, materials or equipment for any other phase of the construction without following the requirements of subsections 3 to 11, inclusive.

**Sec. 6. NRS 338.1373 is hereby amended to read as follows:**

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive;

(c) NRS 338.169 to ~~338.1699, inclusive~~ **338.16985, inclusive**, ~~and sections 3, 4 and 5 of this act;~~ or

(d) NRS 338.1711 to 338.1727, inclusive.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 ~~1, 338.169 to 338.1699, inclusive,~~ and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of

highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

~~[Sec. 2.]~~ **Sec. 7.** NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act; or

(d) NRS 338.1711 to 338.1727, inclusive ~~[ ]~~ , **and section ~~[[ ]~~ 2 of this act.**

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

**Sec. 8. NRS 338.1373 is hereby amended to read as follows:**

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act; or

(d) NRS 338.1711 to 338.1727, inclusive, and section 2 of this act.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, **338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act** and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

**Sec. 9. NRS 338.1373 is hereby amended to read as follows:**

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act; or

(d) NRS 338.1711 to 338.1727, inclusive, ~~[ ] and section 2 of this act.~~

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.16985, inclusive,

and sections 3, 4 and 5 of this act and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

**Sec. 10. NRS 338.1381 is hereby amended to read as follows:**

338.1381 1. If, within 10 days after receipt of the notice denying an application pursuant to NRS 338.1379 or section 4 of this act or disqualifying a subcontractor pursuant to NRS 338.1376, the applicant or subcontractor, as applicable, files a written request for a hearing with the State Public Works Board or the local government, the Board or governing body shall set the matter for a hearing within 20 days after receipt of the request. The hearing must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.

2. The hearing must be held at a time and place prescribed by the Board or local government. At least 10 days before the date set for the hearing, the Board or local government shall serve the applicant or subcontractor with written notice of the hearing. The notice may be served by personal delivery to the applicant or subcontractor or by certified mail to the last known business or residential address of the applicant or subcontractor.

3. The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a public work.

4. In conducting a hearing pursuant to this section, the Board or governing body may:

- (a) Administer oaths;
- (b) Take testimony;
- (c) Issue subpoenas to compel the attendance of witnesses to testify before the Board or governing body;
- (d) Require the production of related books, papers and documents; and
- (e) Issue commissions to take testimony.

5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the Board or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.

6. The Board or governing body shall issue a decision on the matter during the hearing. The decision of the Board or governing body is a final decision for purposes of judicial review.

**Sec. 11. NRS 338.1385 is hereby amended to read as follows:**

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 and, with respect to the State, NRS 338.1384 to 338.13847, inclusive.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:



(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to ~~NRS 338.169, 338.1699, 338.16985,~~ inclusive ~~of~~ and sections 3, 4 and 5 of this act.

**Sec. 12. NRS 338.13895 is hereby amended to read as follows:**

338.13895 1. The State Public Works Board shall not award a contract to a person who, at the time of the bid, is not properly licensed under the provisions of chapter 624 of NRS or if the contract would exceed the limit of the person's license. A subcontractor who is:

(a) Named in the bid for the contract as a subcontractor who will provide a portion of the work on the public work pursuant to NRS 338.141; and

(b) Not properly licensed for that portion of the work, or who, at the time of the bid, is on disqualified status with the State Public Works Board pursuant to NRS 338.1376,

↪ shall be deemed unacceptable. If the subcontractor is deemed unacceptable pursuant to this subsection, the contractor shall provide an acceptable subcontractor ~~of~~ with no increase in the amount of the contract or bid.

2. A local government awarding a contract for a public work shall not award the contract to a person who, at the time of the bid, is not properly licensed under the provisions of chapter 624 of NRS or if the contract would exceed the limit of the person's license. A subcontractor who is:

(a) Named in the bid for the contract as a subcontractor who will provide a portion of the work on the public work pursuant to NRS 338.141; and

(b) Not properly licensed for that portion of work,

↪ shall be deemed unacceptable. If the subcontractor is deemed unacceptable pursuant to this subsection, the contractor shall provide an acceptable subcontractor with no increase in the amount of the contract ~~of~~ or bid.

3. If, after awarding the contract, but before commencement of the work, the public body or its authorized representative discovers that the person to whom the contract was awarded is not licensed, or that the contract would exceed the person's license, the public body or its authorized representative shall rescind the award of the contract and may accept the next lowest bid for that public work from a responsive bidder who was determined by the public body or its authorized representative to be a qualified bidder pursuant to NRS 338.1379 or 338.1382 without requiring that new bids be submitted.

**Sec. 13. NRS 338.141 is hereby amended to read as follows:**

338.141 1. Except as otherwise provided in NRS 338.1727, each bid submitted to a public body for any public work to which paragraph (a) of subsection 1 of NRS 338.1385 or paragraph (a) of subsection 1 of NRS 338.143 applies, must include:

(a) If the public body provides a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide such labor or portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work; or

(b) If the public body does not provide a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 5 percent of the prime contractor's total bid. If the bid is submitted pursuant to this paragraph, within 2 hours after the completion of the opening of the bids, the contractors who submitted the three lowest bids must submit a list containing the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 1 percent of the prime contractor's total bid or \$50,000, whichever is greater, and the number of the license issued to the first tier subcontractor pursuant to chapter 624 of NRS.

2. The lists required by subsection 1 must include a description of the labor or portion of the work which each first tier subcontractor named in the list will provide to the prime contractor.

3. A prime contractor shall include his or her name on a list required by paragraph (a) or (b) of subsection 1 if as the prime contractor , the prime contractor will perform any of the work required to be listed pursuant to paragraph (a) or (b) of subsection 1.

4. Except as otherwise provided in this subsection, if a contractor:

(a) Fails to submit the list within the required time; or

(b) Submits a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the State Public Works Board pursuant to NRS 338.1376,

➡ the contractor's bid shall be deemed not responsive. A contractor's bid shall not be deemed not responsive on the grounds that the contractor submitted a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the State Public Works Board pursuant to NRS 338.1376 if the contractor, before the award of the contract, provides an acceptable replacement subcontractor in the manner set forth in subsection 1 or 2 of NRS 338.13895.

5. A prime contractor ~~[whose bid is accepted]~~ shall not substitute a subcontractor for any subcontractor who is named in the bid, unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change.

(b) The substitution is approved by the public body or its authorized representative. The substitution must be approved if the public body or its authorized representative determines that:

(1) The named subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the contractor which was offered to the named subcontractor with the same general terms that all other subcontractors on the project were offered;

(2) The named subcontractor files for bankruptcy or becomes insolvent;

(3) The named subcontractor fails or refuses to perform his or her subcontract within a reasonable time or is unable to furnish a performance bond and payment bond pursuant to NRS 339.025; or

(4) The named subcontractor is not properly licensed to provide that labor or portion of the work.

(c) If the public body awarding the contract is a governing body, the public body or its authorized representative, in awarding the contract pursuant to NRS 338.1375 to 338.139, inclusive:

(1) Applies such criteria set forth in NRS 338.1377 as are appropriate for subcontractors and determines that the subcontractor does not meet that criteria; and

(2) Requests in writing a substitution of the subcontractor.

6. *If a prime contractor substitutes a subcontractor for any subcontractor who is named in the bid without complying with the provisions of subsection 5, the prime contractor shall forfeit, as a penalty to the public body that awarded the contract, an amount equal to 1 percent of the total amount of the contract.*

7. If a *prime* contractor ~~indicates~~ indicated pursuant to subsection ~~4~~ 3 that he or she ~~will~~ would perform a portion of work on the public work and ~~thereafter requests to substitute~~ , after the submission of the bid, substitutes a subcontractor to perform such work, the prime contractor shall ~~provide to the public body a written explanation in the form required by the public body which contains the reasons that:~~

~~(a) A subcontractor was not originally contemplated to be used on that portion of the public work; and~~

~~(b) The substitution is in the best interest of the public body.~~

~~7.1~~ *forfeit as a penalty to the public body that awarded the contract, the lesser of, and excluding any amount of the contract that is attributable to change orders:*

*(a) An amount equal to 2.5 percent of the total amount of the contract;*  
*or*

**(b) An amount equal to 35 percent of the estimate by the engineer of the cost of the work the prime contractor indicated pursuant to subsection 3 that he or she would perform on the public work.**

**8.** As used in this section:

(a) “First tier subcontractor” means a subcontractor who contracts directly with a prime contractor to provide labor, materials or services for a construction project.

(b) “General terms” means the terms and conditions of a contract that set the basic requirements for a public work and apply without regard to the particular trade or specialty of a subcontractor, but does not include any provision that controls or relates to the specific portion of the public work that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.

**Sec. 14. NRS 338.142 is hereby amended to read as follows:**

338.142 1. A person who bids on a contract may file a notice of protest regarding the awarding of the contract with the authorized representative designated by the public body within 5 business days after the date the ~~bids were opened~~ **recommendation to award a contract is issued** by the public body or its authorized representative.

2. The notice of protest must include a written statement setting forth with specificity the reasons the person filing the notice believes the applicable provisions of law were violated.

3. A person filing a notice of protest may be required by the public body or its authorized representative, at the time the notice of protest is filed, to post a bond with a good and solvent surety authorized to do business in this state or submit other security, in a form approved by the public body, to the public body who shall hold the bond or other security until a determination is made on the protest. A bond posted or other security submitted with a notice of protest must be in an amount equal to the lesser of:

(a) Twenty-five percent of the total value of the bid submitted by the person filing the notice of protest; or

(b) Two hundred fifty thousand dollars.

4. A notice of protest filed in accordance with the provisions of this section operates as a stay of action in relation to the awarding of any contract until a determination is made by the public body on the protest.

5. A person who makes an unsuccessful bid may not seek any type of judicial intervention until the public body has made a determination on the protest and awarded the contract.

6. Neither a public body nor any authorized representative of the public body is liable for any costs, expenses, attorney’s fees, loss of income or other

damages sustained by a person who makes a bid, whether or not the person files a notice of protest pursuant to this section.

7. If the protest is upheld, the bond posted or other security submitted with the notice of protest must be returned to the person who posted the bond or submitted the security. If the protest is rejected, a claim may be made against the bond or other security by the public body in an amount equal to the expenses incurred by the public body because of the unsuccessful protest. Any money remaining after the claim has been satisfied must be returned to the person who posted the bond or submitted the security.

**Sec. 15. NRS 338.143 is hereby amended to read as follows:**

338.143 1. Except as otherwise provided in subsection 8 and NRS 338.1907, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 and 338.1446.

(c) Divide a project work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to ~~338.1699~~, 338.16985, inclusive ~~14~~, and sections 3, 4 and 5 of this act.

~~{Sec. 3}~~ **Sec. 16.** NRS 338.155 is hereby amended to read as follows:

338.155 1. If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:

(a) Must set forth:

(1) The specific period within which the public body must pay the design professional.

(2) The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.

(3) The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to subparagraph (1).

(4) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.

(b) May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to subparagraph (1) of paragraph (a).

(c) May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.

(d) Must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.

(e) Except as otherwise provided in this paragraph, may require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees and costs, to the extent that such



liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. If the insurer by which the design professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional.

2. Any provision of a contract entered into by a public body and a design professional who is not a member of a design-build team that conflicts with the provisions of paragraph (d) or (e) of subsection 1 is void.

3. *A public body shall not enter into a contract with a design professional who is not a member of a design-build team for the provision of services in connection with a public work until 3 days after the public body has transmitted the information relating to the selection of the design professional to the licensing board that regulates the design professional, including, without limitation, the name of the public body, the name of the design professional, whether the design professional possesses a certificate of eligibility to receive a preference when competing for public works and a brief description of the project and services the design professional was selected for, and the licensing board has posted such information on its Internet website. A licensing board shall post any information received pursuant to this subsection within 1 business day after receiving such information.*

4. As used in this section, "agents" means those persons who are directly involved in and acting on behalf of the public body or the design professional, as applicable, in furtherance of the contract or the public work to which the contract pertains.

**Sec. 17. NRS 338.155 is hereby amended to read as follows:**

338.155 1. If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:

(a) Must set forth:

(1) The specific period within which the public body must pay the design professional.

(2) The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.

(3) The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to subparagraph (1).

(4) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.

(b) May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to subparagraph (1) of paragraph (a).

(c) May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.

(d) Must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.

(e) Except as otherwise provided in this paragraph, may require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees and costs, to the extent that such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. If the insurer by which the design professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional.

2. Any provision of a contract entered into by a public body and a design professional who is not a member of a design-build team that conflicts with the provisions of paragraph (d) or (e) of subsection 1 is void.

3. A public body shall not enter into a contract with a design professional who is not a member of a design-build team for the provision of services in connection with a public work until 3 days after the public body has transmitted the information relating to the selection of the design professional to the licensing board that regulates the design professional, including, without limitation, the name of the public body, the name of the design professional ~~if whether the design professional possesses a certificate of~~

~~eligibility to receive a preference when competing for public works]~~ and a brief description of the project and services the design professional was selected for, and the licensing board has posted such information on its Internet website. A licensing board shall post any information received pursuant to this subsection within 1 business day after receiving such information.

4. As used in this section, “agents” means those persons who are directly involved in and acting on behalf of the public body or the design professional, as applicable, in furtherance of the contract or the public work to which the contract pertains.

**Sec. 18. NRS 338.169 is hereby amended to read as follows:**

338.169 A public body may construct a public work by:

1. Selecting a construction manager at risk pursuant to the provisions of NRS 338.1691 to 338.1696, inclusive; and

2. Entering into separate contracts with a construction manager at risk:

(a) For preconstruction services, including, without limitation:

(1) Assisting the public body in determining whether scheduling or ~~design~~ **constructability** problems exist that would delay the construction of the public work;

(2) Estimating the cost of the labor and material for the public work; and

(3) Assisting the public body in determining whether the public work can be constructed within the public body’s budget; and

(b) To construct the public work.

**Sec. 19. NRS 338.1691 is hereby amended to read as follows:**

338.1691 To qualify to enter into contracts with a public body for preconstruction services and to construct a public work, a construction manager at risk must:

1. Not have been found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause, during the 5 years immediately preceding the date of the advertisement for ~~statements of qualifications]~~ **proposals** pursuant to NRS 338.1692;

2. Not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333;

3. Be licensed as a contractor pursuant to chapter 624 of NRS; and

4. If the project is for the ~~design~~ **construction** of a public work of the State, be qualified to bid on a public work of the State pursuant to NRS 338.1379.

**Sec. 20. NRS 338.1692 is hereby amended to read as follows:**

338.1692 1. A public body **or its authorized representative** shall advertise for ~~statements of qualifications]~~ **proposals** for a construction manager at risk in a newspaper qualified pursuant to chapter 238 of NRS that

is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

2. A request for ~~for a statement of qualifications~~ proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the public work;  
 (b) An estimate of the cost of construction;  
 (c) A description of the work that the public body expects a construction manager at risk to perform;

(d) The dates on which it is anticipated that the separate phases of the preconstruction and construction of the public work will begin and end;

(e) The date by which ~~statements of qualifications~~ proposals must be submitted to the public body;

(f) If the project is a public work of the State, a statement setting forth that the construction manager at risk must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a ~~statement of qualifications~~ proposal;

(g) The name, title, address and telephone number of a person employed by the public body that an applicant may contact for further information regarding the public work; ~~and~~

(h) A list of the selection criteria and relative weight of the selection criteria that will be used to evaluate ~~statements of qualifications~~ proposals; and

(i) A notice that the proposed form of the contract to assist in the preconstruction of the public work or to construct the public work, including, without limitation, the terms and general conditions of the contract, is available from the public body.

3. A ~~statement of qualifications~~ proposal must include, without limitation:

(a) An explanation of the experience that the applicant has with projects of similar size and scope ~~in both the public and private sectors, including, without limitation, an explanation of the experience that the applicant has in assisting in the design of such projects and an explanation of the experience that the applicant has in such projects in Nevada;~~

(b) The contact information for references who have knowledge of the background, character and technical competence of the applicant;

(c) ~~The applicant's preliminary proposal for managing the preconstruction and construction of the public work;~~

~~(d)~~ Evidence of the ability of the applicant to obtain the necessary bonding for the work to be required by the public body;

~~[(c)]~~ (d) Evidence that the applicant has obtained or has the ability to obtain such insurance as may be required by law; ~~and]~~

~~[(f)]~~ (e) A statement of whether the applicant has been:

(1) Found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause ~~[(1)]~~, during the 5 years immediately preceding the date of the advertisement for proposals; and

(2) Disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333 ~~[(2)]~~;

(f) The professional qualifications and experience of the applicant, including, without limitation, the resume of any employee of the applicant who will be managing the preconstruction and construction of the public work;

(g) The safety programs established and the safety records accumulated by the applicant;

(h) Evidence that the applicant is licensed as a contractor pursuant to chapter 624 of NRS;

(i) The proposed plan of the applicant to manage the preconstruction and construction of the public work which sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work; and

(j) If the project is for the design of a public work of the State, evidence that the applicant is qualified to bid on a public work of the State pursuant to NRS 338.1379.

**Sec. 21. NRS 338.1693 is hereby amended to read as follows:**

338.1693 1. The public body or its authorized representative shall appoint a panel consisting of at least three members, at least two of whom must have experience in the construction industry, to rank the ~~[(statements of qualifications)]~~ proposals submitted to the public body by evaluating the ~~[(statements of qualifications)]~~ proposals as required pursuant to subsections 2 and 3.

2. The panel shall rank the ~~[(statements of qualifications)]~~ proposals by:

(a) Verifying that each applicant satisfies the requirements of NRS 338.1691; and

(b) ~~[(Conducting an evaluation of the qualifications of each applicant based on the factors and relative weight assigned to each factor that the public body specified in the request for statements of qualifications advertised pursuant to NRS 338.1692.)]~~ Evaluating and assigning a score to each of the proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for proposals.

3. When ranking the ~~[(statements of qualifications)]~~ proposals, the panel shall assign a relative weight of 5 percent to the possession of a certificate of

eligibility to receive a preference in bidding on public works. *If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.*

4. After the panel ranks the ~~statements of qualifications,~~ proposals, the public body or its authorized representative shall ~~if~~

~~(a) Make available to the public the rankings of the applicants; and~~

~~(b) Except~~ , except as otherwise provided in subsection 5, select at least the two but not more than the five applicants ~~that the panel determined to be most qualified as finalists to submit final proposals to the public body pursuant to NRS 338.1694.~~ whose proposals received the highest scores for interviews. During the interview process, the public body or its authorized representative may require the applicants to submit a preliminary proposed amount of compensation for managing the preconstruction and construction of the public work, but in no event shall the proposed amount of compensation exceed 20 percent of the scoring for the selection of the most qualified applicant. After conducting such interviews, the panel shall rank the applicants by using a ranking process that is separate from the process used to rank proposals pursuant to subsection 2 and is based only on information submitted during the interview process. The score to be given for the proposed amount of compensation, if any, must be calculated by dividing the lowest of all the proposed amounts of compensation by the applicant's proposed amount of compensation multiplied by the total possible points available to each applicant.

5. If the public body did not receive at least two ~~statements of qualifications from applicants that the panel determines to be qualified pursuant to this section and NRS 338.1691,~~ proposals, the public body may not contract with a construction manager at risk.

6. Upon receipt of the final rankings of the applicants from the panel, the public body or its authorized representative shall enter into negotiations with the most qualified applicant determined pursuant to subsections 2, 3 and 4 for a contract for preconstruction services, unless the public body required the submission of a proposed amount of compensation, in which case the proposed amount of compensation submitted by the applicant must be the amount offered for the contract. If the public body or its authorized representative is unable to negotiate a contract with the most qualified applicant for an amount of compensation that the public body or its authorized representative and the most qualified applicant determine to be fair and reasonable, the public body or its authorized representative shall terminate negotiations with that applicant. The public body or its

authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

7. The public body or its authorized representative shall make available to all applicants and the public the final rankings of the applicants and shall provide, upon request, an explanation to any unsuccessful applicant of the reasons why the applicant was unsuccessful.

**Sec. 22. NRS 338.1696 is hereby amended to read as follows:**

338.1696 1. If a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to NRS ~~338.1695,~~ **338.1693,** after the public body has finalized the design for the public work, **or any portion thereof sufficient to determine the provable cost of that portion,** the public body shall enter into negotiations with the construction manager at risk for a contract to construct the public work **or the portion thereof** for the public body for:

- (a) The cost of the work, plus a fee, with a guaranteed maximum price;
- (b) A fixed price; or
- (c) A fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work ~~or~~ **or portion thereof.**

2. If the public body is unable to negotiate a satisfactory contract with the construction manager at risk to construct the public work ~~or~~ **or portion thereof,** the public body ~~is~~

~~(a) Shall~~ **shall** terminate negotiations with that applicant ~~or~~ **and** **:**

~~(b) (a)~~ **(a)** May award the contract for the public work:

(1) If the public body is not a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive.

(2) If the public body is a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive, or 338.143 to 338.148, inclusive ~~or~~ **and**

**(b) Shall accept a bid to construct the public work from the construction manager at risk with whom the public body entered into a contract for preconstruction services.**

**Sec. 23. NRS 338.1698 is hereby amended to read as follows:**

338.1698 A contract awarded to a construction manager at risk pursuant to NRS ~~338.1695 or~~ 338.1696:

1. Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

2. Must specify a date by which performance of the work required by the contract must be completed.

3. May set forth the terms by which the construction manager at risk agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the construction manager at risk.

4. Must require that the construction manager at risk to whom a contract is awarded assume overall responsibility for ensuring that the preconstruction or construction of the public work, as applicable, is completed in a satisfactory manner.

5. May include such additional provisions as may be agreed upon by the public body and the construction manager at risk.

**Sec. 24. NRS 338.1711 is hereby amended to read as follows:**

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to ~~338.1699,~~ 338.16985, inclusive, and sections 3, 4 and 5 of this act, a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds \$100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work ~~is:~~

~~(a) Is the construction of a park and appurtenances thereto, the rehabilitation or remodeling of a public building, or the construction of an addition to a public building; or~~

~~(b) Has~~ has an estimated cost which exceeds ~~(\$10,000,000.)~~ \$5,000,000.

**Sec. 25. NRS 338.1718 is hereby amended to read as follows:**

338.1718 1. A construction manager as agent:

(a) Must:

(1) Be a contractor licensed pursuant to chapter 624 of NRS;

(2) Hold a certificate of registration to practice architecture, interior design or residential design pursuant to chapter 623 of NRS; or

(3) Be licensed as a professional engineer pursuant to chapter 625 of NRS.

(b) May enter into a contract with a public body to assist in the planning, scheduling and management of the construction of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of the public work. A construction manager as agent who enters into a contract with a public body pursuant to this section may not ~~take~~ :

(1) Take part in the design or construction of the public work ~~it~~ ; or

(2) Act as an agent of the public body to select a subcontractor if the work to be performed by the subcontractor is part of a larger public work.

2. A contract between a public body and a construction manager as agent is not required to be awarded by competitive bidding.



~~[Sec. 4.]~~ **Sec. 26.** NRS 338.1725 is hereby amended to read as follows:

338.1725 1. The public body shall select at least two but not more than four finalists from among the design-build teams that submitted preliminary proposals. If the public body does not receive at least two preliminary proposals from design-build teams that the public body determines to be qualified pursuant to this section and NRS 338.1721, the public body may not contract with a design-build team for the design and construction of the public work.

2. The public body shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 338.1721; ~~and~~

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team; and

(4) The proposed plan of the design-build team to manage the design and construction of the public work that sets forth in detail the ability of the design-build team to design and construct the public work ~~[-]~~; and

*(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of 5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.*

3. After the selection of finalists pursuant to this section, the public body shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and ~~the rankings of the design-build teams who submitted preliminary proposals.~~

*identify which of the finalists, if any, received an assignment of 5 percent pursuant to paragraph (c) of subsection 2.*

~~[Sec. 5.]~~ **Sec. 27.** NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the possession of ~~both~~ a certificate of eligibility to receive a preference in bidding on public works ~~by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team,~~ and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to ~~for~~ preference in bidding on public works, ~~for a preference when competing for public works,~~ those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body ~~is, at a regularly scheduled meeting,~~ or its authorized representative shall ~~be~~

~~(a) Select the final proposal, using~~ **enter into negotiations with the most qualified applicant, as determined pursuant to** the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected. ~~It or~~

~~(b) Reject all the final proposals.~~ **If the public body or its authorized representative is unable to negotiate with the most qualified applicant a contract that is determined by the parties to be fair and reasonable, the public body may terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.**

7. If a public body selects a final proposal and awards a design-build contract pursuant to ~~paragraph (a) of~~ subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

**Sec. 28. NRS 338.1727 is hereby amended to read as follows:**

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team, and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to a preference in bidding on public works, or a

preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body or its authorized representative shall enter into negotiations with the most qualified applicant, as determined pursuant to the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected. If the public body or its authorized representative is unable to negotiate with the most qualified applicant a contract that is determined by the parties to be fair and reasonable, the public body may terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

7. If a public body selects a final proposal and awards a design-build contract pursuant to subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

**Sec. 29. NRS 338.485 is hereby amended to read as follows:**

338.485 1. A person may not waive or modify a right, obligation or liability set forth in the provisions of NRS 338.400 to 338.645, inclusive.

2. A condition, stipulation or provision in a contract or other agreement that:

(a) Requires a person to waive a right set forth in the provisions of NRS 338.400 to 338.645, inclusive; ~~for~~

(b) Relieves a person of an obligation or liability imposed by the provisions of NRS 338.400 to 338.645, inclusive. ~~H~~;

**(c) Requires a contractor to waive, release or extinguish a claim or right for damages or an extension of time that the contractor may otherwise possess or acquire as a result of a delay that is:**

(1) So unreasonable in length as to amount to an abandonment of the public work;

(2) Caused by fraud, misrepresentation, concealment or other bad faith by the public body;

(3) Caused by active interference by the public body; or

(4) Caused by a decision by the public body to significantly add to the scope or duration of the public work; or

(d) Requires a contractor or public body to be responsible for any consequential damages suffered or incurred by the other party that arise from or relate to a contract for a public work, including, without limitation, rental expenses or other damages resulting from a loss of use or availability of the public work, lost income, lost profit, lost financing or opportunity, business or reputation, and loss of management or employee availability, productivity, opportunity or services,

↪ is against public policy and is void, ~~is~~ and unenforceable.

3. The provisions of subsection 2 do not prohibit the use of a liquidated damages clause which otherwise satisfies the requirements of law.

~~{Sec. 6.}~~ Sec. 30. NRS 408.3883 is hereby amended to read as follows:

408.3883 1. The Department shall advertise for preliminary proposals for the design and construction of a project by a design-build team in a newspaper of general circulation in this State.

2. A request for preliminary proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the proposed project;

(b) Separate estimates of the costs of designing and constructing the project;

(c) The dates on which it is anticipated that the separate phases of the design and construction of the project will begin and end;

(d) The date by which preliminary proposals must be submitted to the Department, which must not be less than 30 days after the date that the request for preliminary proposals is first published in a newspaper pursuant to subsection 1; and

(e) A statement setting forth the place and time in which a design-build team desiring to submit a proposal for the project may obtain the information necessary to submit a proposal, including, without limitation, the information set forth in subsection 3.

3. The Department shall maintain at the time and place set forth in the request for preliminary proposals the following information for inspection by a design-build team desiring to submit a proposal for the project:

(a) The extent to which designs must be completed for both preliminary and final proposals and any other requirements for the design and construction of the project that the Department determines to be necessary;

(b) A list of the requirements set forth in NRS 408.3884;

(c) A list of the factors that the Department will use to evaluate design-build teams who submit a proposal for the project, including, without limitation:

(1) The relative weight to be assigned to each factor pursuant to NRS 408.3886; and

(2) A disclosure of whether the factors that are not related to cost are, when considered as a group, more or less important in the process of evaluation than the factor of cost;

(d) Notice that a design-build team desiring to submit a proposal for the project must include with its proposal the information used by the Department to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of NRS 408.3885 and a description of that information;

(e) A statement that a design-build team whose prime contractor holds a certificate of eligibility to receive a preference in bidding on public works issued pursuant to NRS 338.1389 or 338.147 *and whose members who hold a certificate of registration to practice architecture or a license as a professional engineer and who hold a certificate of eligibility to receive a preference when competing for public works issued pursuant to section ~~4~~ 2 of this act* should submit a copy of ~~the~~ *each* certificate of eligibility with its proposal; and

(f) A statement as to whether a ~~bidding~~ design-build team that is selected as a finalist pursuant to NRS 408.3885 but is not awarded the design-build contract pursuant to NRS 408.3886 will be partially reimbursed for the cost of preparing a final proposal or best and final offer, or both, and, if so, an estimate of the amount of the partial reimbursement.

~~{Sec. 7.}~~ **Sec. 31.** NRS 408.3885 is hereby amended to read as follows:

408.3885 1. The Department shall select at least three but not more than five finalists from among the design-build teams that submitted preliminary proposals. If the Department does not receive at least three preliminary proposals from design-build teams that the Department determines to be qualified pursuant to this section and NRS 408.3884, the Department may not contract with a design-build team for the design and construction of the project.

2. The Department shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 408.3884; ~~and~~



(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team;

(4) The proposed plan of the design-build team to manage the design and construction of the project that sets forth in detail the ability of the design-build team to design and construct the project; and

(5) The degree to which the preliminary proposal is responsive to the requirements of the Department for the submittal of a preliminary proposal ~~to~~; and

*(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of 5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by the prime contractor on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.*

*3. After the selection of finalists pursuant to this section, the Department shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and identify which of the finalists, if any, received an assignment of 5 percent pursuant to paragraph (c) of subsection 2.*

~~{Sec. 8.1}~~ *Sec. 32.* NRS 408.3886 is hereby amended to read as follows:

408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the possession of ***both*** a certificate of eligibility to receive a preference in bidding on public works ***by the prime contractor on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team,*** and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to ***a*** preference in bidding on public works ~~***or a***~~ ***preference when competing for public works,*** those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.

4. After receiving the final proposals for the project, the Department shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;

(b) Reject all the final proposals; or

(c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be

submitted to the Department. After receiving the best and final offers, the Department shall:

(a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or

(b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

(a) Review and ratify the selection.

(b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

~~Sec. 9.~~ **Sec. 33.** NRS 625.530 is hereby amended to read as follows:

625.530 Except as otherwise provided in NRS 338.1711 to 338.1727, inclusive, **and section ~~44~~ 2 of this act** and 408.3875 to 408.3887, inclusive:

1. The State of Nevada or any of its political subdivisions, including a county, city or town, shall not engage in any public work requiring the practice of professional engineering or land surveying, unless the maps, plans, specifications, reports and estimates have been prepared by, and the work executed under the supervision of, a professional engineer, professional land surveyor or registered architect.

2. The provisions of this section do not:

(a) Apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed \$35,000.

(b) Include any maintenance work undertaken by the State of Nevada or its political subdivisions.

(c) Authorize a professional engineer, registered architect or professional land surveyor to practice in violation of any of the provisions of this chapter or chapter 623 of NRS.

(d) Require the services of an architect registered pursuant to the provisions of chapter 623 of NRS for the erection of buildings or structures manufactured in an industrial plant, if those buildings or structures meet the requirements of local building codes of the jurisdiction in which they are being erected.

3. The selection of a professional engineer, professional land surveyor or registered architect to perform services pursuant to subsection 1 must be made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees. If, after selection of the engineer, land surveyor or architect, an agreement upon a fair and reasonable fee cannot be reached with him or her, the public agency may terminate negotiations and select another engineer, land surveyor or architect. *Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a professional engineer, professional land surveyor or registered architect pursuant to this subsection, the public agency shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference when competing for public works. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.*

**Sec. 34. NRS 338.1694, 338.1695 and 338.1699 are hereby repealed.**

~~{Sec. 40.}~~ *Sec. 35. 1.* The State Board of Architecture, Interior Design and Residential Design, the State Board of Landscape Architecture and the State Board of Professional Engineers and Land Surveyors shall, before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

*2. The State Public Works Board shall, as soon as practicable after the effective date of this section, adopt regulations governing the acts required by subsection 9 of section 5 of this act.*

*Sec. 36. 1. The State Public Works Board and each local government that awards a contract pursuant to NRS 338.1727, as amended by section 28 of this act, or NRS 408.3886, as amended by section 32 of this act, or selects a professional engineer, professional land surveyor or registered architect pursuant to NRS 625.530, as amended by section 33 of this act, shall, on or before October 1 of the year in which it awards such a contract or makes such a selection, submit to the Director of the Legislative Counsel Bureau a report detailing those contracts and selections on the form prescribed by the Committee on Local Government Finance.*

*2. Before August 1, 2011, the Committee on Local Government Finance created pursuant to NRS 354.105 shall prescribe a form for the report described in subsection 1, which must include, without limitation:*

*(a) The total number of contracts and selections described in subsection 1 awarded and made by the State Public Works Board or local government during the year to which the report pertains; and*

*(b) A description of each such contract or selection, including, without limitation:*

*(1) The name of the person or entity who was selected or to whom the contract was awarded.*

*(2) The particular type of goods or services involved in the contract or selection.*

*(3) The dollar amount of the contract or selection.*

*(4) Whether the person or entity who was selected or to whom the contract was awarded was awarded the contract or selected as a result of the person or entity possessing a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 of section 2 of this act.*

*(5) If the person or entity who was selected or to whom the contract was awarded did not possess a certificate for eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 of section 2 of this act, the number of persons or entities that did possess such a certificate that bid on the contract or were considered for selection.*

Sec. 37. The provisions of sections 4 and 5 of this act apply only to contracts entered into on or after July 1, 2011.

~~{Sec. 41}~~ Sec. 38. 1. This section and sections 1, 3 to 6, inclusive, 10 to 15, inclusive, 18 to 25, inclusive, 27, 29, 34, 35 and 37 of this act become effective:

~~{1}~~ (a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of ~~{this act}~~ those sections; and

~~{2}~~ (b) On July 1, 2011, for all other purposes.

2. Sections 2, 7, 16, 26, 28, 30 to 33, inclusive, and 36 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On October 1, 2011, for all other purposes.

3. Section 8 of this act becomes effective on July 1, 2013.

4. Sections 2, 26, 28, 30 to 33, inclusive, and 36 of this act expire by limitation on September 30, 2013.

5. Sections 9 and 17 of this act become effective on October 1, 2013.

#### TEXT OF REPEALED SECTIONS

NRS 338.1694 Final proposals: Requests; requirements.

1. After the finalists are selected pursuant to paragraph (b) of subsection 4 of NRS 338.1693, the public body shall provide to each finalist a request for final proposals. The request for final proposals must:

(a) Set forth the date by which final proposals must be submitted to the public body;

(b) Set forth the proposed forms of the contract to assist in the preconstruction of the public work and the contract to construct the public work that include, without limitation, the proposed terms and general conditions of the contracts; and

(c) Set forth the selection criteria and relative weight of the selection criteria that will be used to evaluate the final proposals.

2. A final proposal must include, without limitation:

(a) The professional qualifications and experience of the applicant, including, without limitation, the resumes of any employees of the applicant who will be managing the preconstruction and construction of the public work;

(b) The performance history of the applicant concerning other recent, similar projects completed by the applicant, if any;

(c) The safety programs established and the safety records accumulated by the applicant;

(d) The proposed plan of the applicant to manage the preconstruction and construction of the public work, which plan sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work; and

(e) A proposed plan of the applicant for the selection of any necessary subcontractors.

NRS 338.1695 Ranking of applicants based on final proposals and interviews; negotiations with certain applicants for contract for preconstruction services; availability to applicants and public of certain information.

1. The panel appointed by the public body pursuant to NRS 338.1693 shall evaluate and assign a score to each of the final proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for final proposals. The panel shall interview the two or three applicants whose final proposals received the highest scores. After conducting such interviews, the panel shall rank the applicants based on the final proposals and interviews, which must be given equal weight.

2. Upon receipt of the final rankings of the applicants from the panel, the public body shall enter into negotiations with the most qualified applicant determined pursuant to subsection 1 for a contract for preconstruction services. If the public body is unable to negotiate a contract with the most qualified applicant at an amount of compensation that the public body and the most qualified applicant determine to be fair and reasonable, the public body shall terminate negotiations with that applicant. The public body may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached or a determination is made by the public body to reject all applicants.

3. The public body shall make available to the applicants and the public the results of the evaluations of final proposals and interviews conducted pursuant to subsection 1 and the final rankings of the applicants.

NRS 338.1699 Subcontractors on public works for which contractor at risk was awarded contract: Eligibility; submission of list to public body.

1. To be eligible to provide materials, equipment, work or other services on a public work for which a construction manager at risk was awarded a contract pursuant to NRS 338.1696, a subcontractor must be:

(a) Licensed pursuant to chapter 624 of NRS; and

**(b) Selected by the construction manager at risk based on the process of competitive bidding set forth in the applicable provisions of NRS 338.1373 to 338.148, inclusive.**

**2. A construction manager at risk to whom a contract for the construction of a public work is awarded pursuant to NRS 338.1696 shall submit to the public body that awarded the contract a list containing the names of each subcontractor with whom the construction manager at risk intends to enter into a contract for the provision of materials, equipment, work or other services on the public work.**

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

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

Assembly in recess at 10:48 a.m.

#### ASSEMBLY IN SESSION

At 10:53 a.m.

Mr. Speaker presiding.

Quorum present.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 332.

Bill read third time.

Remarks by Assemblymen Conklin and Hickey.

Roll call on Assembly Bill No. 332:

YEAS—26.

NAYS—Ellison, Goedhart, Goicoechea, Hambrick, Hammond, Hansen, Hardy, Hickey, Kimer, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—15.

EXCUSED—Grady.

Assembly Bill No. 332 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 432.

Bill read third time.

Remarks by Assemblywoman Benitez-Thompson.

Roll call on Assembly Bill No. 432:

YEAS—41.

NAYS—None.

EXCUSED—Grady.



Assembly Bill No. 432 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 515.

Bill read third time.

Roll call on Assembly Bill No. 515:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Assembly Bill No. 515 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 563.

Bill read third time.

Remarks by Assemblyman Kirner.

Roll call on Assembly Bill No. 563:

YEAS—40.

NAYS—Aizley.

EXCUSED—Grady.

Assembly Bill No. 563 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 36.

Bill read third time.

Roll call on Senate Bill No. 36:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 36 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 55.

Bill read third time.

Roll call on Senate Bill No. 55:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 55 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 57.

Bill read third time.

Roll call on Senate Bill No. 57:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 57 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 171 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 171.

Bill read third time.

The following amendment was proposed by Assemblymen Bobzien and Frierson:

Amendment No. 840.

AN ACT relating to education; revising provisions governing the membership of a committee to form a charter school and the governing body of a charter school; revising provisions for the process of review of an application to form a charter school; authorizing the governing body of a charter school to set a salary for the attendance of its members at meetings of the governing body; revising the requirements for a charter school to be eligible for an exemption from annual performance audits and to receive certain money for facilities; revising provisions governing the employment of licensed employees by a charter school; revising various other provisions governing charter schools; repealing the Subcommittee on Charter Schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Section 1** of this bill revises the membership of a committee to form a charter school and revises the process for review of an application to form a charter school by the Department of Education.

**Section 2** of this bill revises the procedure for the review of an application to form a charter school if the proposed sponsor is the State Board of Education.

**Section 3** of this bill provides that if the sponsor of a charter school denies a request for an amendment of a written charter of the charter school, the sponsor must provide written notice to the governing body which sets forth the reasons for the denial.

**Section 3.5** of this bill provides that the sponsor of a charter school may revoke the written charter before the expiration of the charter if the sponsor determines that the charter school failed to comply with the material terms and conditions of the written charter.

**Section 5** of this bill authorizes the Department to request certain information from a charter school, regardless of whether that information is required by specific statute, and provides that if the Department requests such information, the Department shall include in the request a mechanism by which the Department will pay or reimburse the charter school for the requested information, if the provision of the information will incur any costs for the charter school.

**Section 6** of this bill revises the membership of the governing body of a charter school and authorizes the governing body, upon a majority vote of members, to set a salary for the attendance of its members at meetings of the governing body, not to exceed \$80 per meeting per month.

Existing law prescribes the requirement for a charter school to be exempt from an annual performance audit and undergo a performance audit every 3 years and to be eligible for available money from legislative appropriations or otherwise for facilities. A charter school is eligible if at least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination. (NRS 386.5515) **Section 7** of this bill revises this eligibility requirement to require that at least 75 percent of the pupils enrolled in the charter school in grade 12 in the immediately preceding school year who have satisfied the course work requirements for graduation have passed the high school proficiency examination.

Existing law provides that the pupils enrolled in charter schools must be included in the count of pupils for purposes of the apportionments and allowances from the State Distributive School Account and provides for the reimbursement of administrative costs to the sponsor of a charter school. (NRS 386.570) **Section 9** of this bill requires the State Board to prescribe a process which ensures that all charter schools, regardless of the sponsor, have information of all sources of funding for the public schools provided through the Department.

Existing law requires a school district to grant a leave of absence to an employee of the school district, not to exceed 3 years, to accept employment with a charter school sponsored by the school district. The school district is required to grant such an employee's request to return to his or her former teaching position or a comparable teaching position within the school district after the approved leave of absence is complete. (NRS 386.595) **Section 9.7** of this bill removes the provision which specifies that the school district which is the sponsor of the charter school shall grant a leave of absence, so

that a school district, regardless of sponsor, shall grant such a leave of absence for its licensed employees. **Section 9.7** also removes the provision which provides that the employee may return to his or her former teaching position and instead authorizes the employee to return to a comparable teaching position. **Section 9.7** further requires that upon the request of a governing body of a charter school, the board of trustees of a school district, with the permission of the licensed employee who is seeking employment with the charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. **Section 9.7** also requires that upon request of the board of trustees of a school district, the governing body of a charter school, with the permission of the licensed employee who is granted a leave of absence from the school district, transmit to the school district a copy of the employment record of the employee maintained by the charter school. Finally, **section 9.7** authorizes the school district to conduct an investigation of any misconduct of the licensed employee who was granted a leave of absence for employment with a charter school and who requests to return to employment with the school district.

Under existing law, a parent may homeschool a child if the parent submits to the superintendent of schools of the school district in which the child resides a notice of intent to homeschool the child. (NRS 392.700) **Section 10** of this bill requires a charter school, to the extent practicable, to notify the school district in which the child resides if the child who is or was homeschooled enrolls in the charter school and provides that the child may be counted for the purposes of the calculation of basic support whether or not the charter school provides the notice.

**Section 11** of this bill repeals the Subcommittee on Charter Schools.

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

**Section 1.** NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of ~~at least three teachers, as defined in subsection 4.~~ **at**

*(a) One member who is a teacher or other person licensed pursuant to chapter 391 of NRS or who previously held such a license and is retired, as long as his or her license was held in good standing;*

*(b) One member who:*

*(1) Satisfies the qualifications of paragraph (a); or*

*(2) Is a school administrator with a license issued by another state or who previously held such a license and is retired, as long as his or her license was held in good standing;*

(c) *One parent or legal guardian who is not a teacher or employee of the proposed charter school; and*

(d) *Two members who possess knowledge and expertise in one or more of the following areas:*

(1) *Accounting;*

(2) *Financial services;*

(3) *Law; or*

(4) *Human resources.*

2. In addition to the ~~teachers~~ *members* who serve ~~it~~ *pursuant to subsection 1*, the committee *to form a charter school* may ~~consist of;~~ *include, without limitation, not more than four additional members as follows:*

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

(c) Representatives of a college or university within the Nevada System of Higher Education.

~~1-1~~ 3. A majority of the persons ~~described in paragraphs (a), (b) and (c)~~ who serve on the committee *to form a charter school* must be residents of this State at the time that the application to form the charter school is submitted to the Department.

~~2-1~~ 4. Before a committee to form a charter school may submit an application to the board of trustees of a school district, ~~the Subcommittee on Charter Schools,~~ the State Board or a college or university within the Nevada System of Higher Education, it must submit the application to the Department. The application must include all information prescribed by the Department by regulation and:

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive.

(b) A written description of the mission and goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

(1) Improving the opportunities for pupils to learn;

(2) Encouraging the use of effective methods of teaching;

(3) Providing an accurate measurement of the educational achievement of pupils;

(4) Establishing accountability of public schools;

(5) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(6) Creating new professional opportunities for teachers.

(c) The projected enrollment of pupils in the charter school.

(d) The proposed dates ~~for~~ *for accepting applications for* enrollment ~~for~~ *in the initial year of operation of* the charter school.

(e) The proposed system of governance for the charter school, including, without limitation, the number of persons who will govern, the method ~~of selecting~~ **for nominating and electing** the persons who will govern and the term of office for each person.

(f) The method by which disputes will be resolved between the governing body of the charter school and the sponsor of the charter school.

(g) The proposed curriculum for the charter school and, if applicable to the grade level of pupils who are enrolled in the charter school, the requirements for the pupils to receive a high school diploma, including, without limitation, whether those pupils will satisfy the requirements of the school district in which the charter school is located for receipt of a high school diploma.

(h) The textbooks that will be used at the charter school.

(i) The qualifications of the persons who will provide instruction at the charter school.

(j) Except as otherwise required by NRS 386.595, the process by which the governing body of the charter school will negotiate employment contracts with the employees of the charter school.

(k) A financial plan for the operation of the charter school. The plan must include, without limitation, procedures for the audit of the programs and finances of the charter school and guidelines for determining the financial liability if the charter school is unsuccessful.

(l) A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

(m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125. If the procedure is different from the procedure prescribed in NRS 391.3125, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125.

(n) The time by which certain academic or educational results will be achieved.

(o) The kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020, for which the charter school intends to operate.

(p) A statement of whether the charter school will enroll pupils who are in a particular category of at-risk pupils before enrolling other children who are

eligible to attend the charter school pursuant to NRS 386.580 and the method for determining eligibility for enrollment in each such category of at-risk pupils served by the charter school.

~~3.1~~ 5. The Department shall review an application to form a charter school to determine whether it is *substantially complete* ~~and compliant~~. If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall ~~deny the application.~~ *provide written notice to the applicant that the application is ineligible for consideration by the proposed sponsor.*

6. The Department shall provide written notice to the applicant of its ~~approval or denial of~~ *determination whether* the application ~~is~~ *is substantially complete and compliant*. If the Department ~~denies~~ *determines that* an application ~~is~~ *is not substantially complete and compliant*, the Department shall include in the written notice the ~~reason for the denial~~ *basis for that determination* and the deficiencies in the application. *The staff designated by the Department shall meet with the applicant to confer on the method to correct the identified deficiencies.* The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~4.1~~ 7. As used in subsection 1, “teacher” means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS ~~or who previously held such a license and is retired, as long as his or her license was held in good standing;~~ and

(b) Has at least 2 years of experience as an employed teacher.

↪ The term does not include a person who is employed as a substitute teacher.

**Sec. 2.** NRS 386.525 is hereby amended to read as follows:

386.525 1. Upon ~~approval of an application~~ *determination* by the Department ~~that an application is substantially complete and compliant,~~ a committee to form a charter school may submit the application to the board of trustees of the school district in which the proposed charter school will be located, a college or university within the Nevada System of Higher Education or ~~directly to the Subcommittee on Charter Schools.~~ *the State Board*. If the board of trustees of a school district, a college or a university, as applicable, receives an application to form a charter school, the board of trustees or the institution, as applicable, shall consider the application at a meeting that must be held not later than 45 days after the receipt of the application, or a period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district or the institution, as applicable, and ensure that notice of the meeting has been provided pursuant to chapter 241 of NRS. The board of trustees, the college,

the university or the ~~{Subcommittee on Charter Schools,}~~ **State Board**, as applicable, shall review an application to determine whether the application:

(a) Complies with NRS 386.500 to 386.610, inclusive, and the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the Department.

2. The Department shall assist the board of trustees of a school district, the college or the university, as applicable, in the review of an application. The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1. The board of trustees, the college or the university, as applicable, shall provide written notice to the applicant of its approval or denial of the application.

3. If the board of trustees, the college or the university, as applicable, denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

4. If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection 3, the applicant may submit a written request *to the State Board* for sponsorship by the State Board ~~{to the Subcommittee on Charter Schools created pursuant to NRS 386.507}~~ not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

5. If the ~~{Subcommittee on Charter Schools,}~~ **State Board** receives an application pursuant to subsection 1 or 4, it shall ~~{hold}~~ *consider the application at* a meeting ~~{to consider the application. The meeting}~~ *which* must be held not later than 45 days after receipt of the application. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The ~~{Subcommittee}~~ **State Board** shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The ~~{Subcommittee}~~ **State Board** may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.

~~{6.—The Subcommittee on Charter Schools shall transmit the application and the recommendation of the Subcommittee for approval or denial of the application to the State Board. Not more than 14 days after the date of the meeting of the Subcommittee pursuant to subsection 5, the State Board shall hold a meeting to consider the recommendation of the Subcommittee. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Board shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The State Board may approve~~



~~an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.]~~ Not more than 30 days after the meeting, the State Board shall provide written notice of its determination to the applicant.

~~{7.}~~ 6. If the State Board denies *or fails to act upon* an application, ~~the denial or failure to act must be based upon a finding that the applicant failed to adequately address objective criteria established by regulation of the Department or the State Board.~~ *The State Board shall include in the written notice the reasons for the denial or the failure to act and the deficiencies in the application. The staff designated by the Department shall meet with the applicant to confer on the method to correct the identified deficiencies.* The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~{8.}~~ 7. If the State Board denies an application after it has been resubmitted pursuant to subsection ~~{7.}~~ 6, the applicant may, not more than 30 days after the receipt of the written notice from the State Board, appeal the final determination to the district court of the county in which the proposed charter school will be located.

~~{9.}~~ 8. On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the State Board, a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

**Sec. 3.** NRS 386.527 is hereby amended to read as follows:

386.527 1. If the State Board, the board of trustees of a school district or a college or university within the Nevada System of Higher Education approves an application to form a charter school, it shall grant a written charter to the applicant. The State Board, the board of trustees, the college or the university, as applicable, shall, not later than 10 days after the approval of the application, provide written notice to the Department of the approval and the date of the approval. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

2. If the State Board approves the application:

(a) The State Board shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

3. If a college or university within the Nevada System of Higher Education approves the application:

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

4. The governing body of a charter school may request, at any time, a change in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The State Board shall adopt:

(a) An application process for a charter school that requests a change in the sponsorship of the charter school, which must not require the applicant to undergo the requirements of an initial application to form a charter school; and

(b) Objective criteria for the conditions under which such a request may be granted.

5. Except as otherwise provided in subsection 7, a written charter must be for a term of 6 years unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection 2 of NRS 386.530. A written charter must include all conditions of operation set forth in subsection ~~2~~ 4 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.

6. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter of the charter school. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school . ~~If the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for~~

~~which the charter school is authorized to operate.} If the proposed amendment complies with the provisions of this section, NRS 386.500 to 386.610, inclusive, and any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school and the expansion of grade levels changes the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit a new application to form a charter school. If such an application is approved, the charter school may continue to operate under the same governing body and an additional governing body does not need to be selected to operate the charter school with the expanded grade levels.} ***If the sponsor denies the request for an amendment, the sponsor shall provide written notice to the governing body of the charter school setting forth the reasons for the denial.***~~

7. The State Board shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:

(a) Period for which such a written charter is valid; and

(b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.

↪ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.

8. The holder of a written charter that is issued pursuant to subsection 7 shall not commence operation of the charter school and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements adopted by the State Board pursuant to subsection 7 have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,  
↪ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

**Sec. 3.5.** NRS 386.535 is hereby amended to read as follows:

386.535 1. The sponsor of a charter school may revoke the written charter of the charter school before the expiration of the charter if the sponsor determines that:

(a) The charter school, its officers or its employees have failed to comply with:

- (1) The *material* terms and conditions of the written charter;
- (2) Generally accepted standards of accounting and fiscal management;

or

(3) The provisions of NRS 386.500 to 386.610, inclusive, or any other statute or regulation applicable to charter schools;

(b) The charter school has filed for a voluntary petition of bankruptcy, is adjudicated bankrupt or insolvent, or is otherwise financially impaired such that the charter school cannot continue to operate; or

(c) There is reasonable cause to believe that revocation is necessary to protect the health and safety of the pupils who are enrolled in the charter school or persons who are employed by the charter school from jeopardy, or to prevent damage to or loss of the property of the school district or the community in which the charter school is located.

2. Before the sponsor revokes a written charter, the sponsor shall provide written notice of its intention to the governing body of the charter school. The written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based;

(b) Except as otherwise provided in subsection 4, prescribe a period, not less than 30 days, during which the charter school may correct the deficiencies, including, without limitation, the date on which the period to correct the deficiencies begins and the date on which that period ends;

(c) Prescribe the date on which the sponsor will make a determination regarding whether the charter school has corrected the deficiencies, which determination may be made during the public hearing held pursuant to subsection 3; and

(d) Prescribe the date on which the sponsor will hold a public hearing to consider whether to revoke the charter.

3. Except as otherwise provided in subsection 4, not more than 90 days after the notice is provided pursuant to subsection 2, the sponsor shall hold a

public hearing to make a determination regarding whether to revoke the written charter. If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b) of subsection 2, the sponsor shall not revoke the written charter of the charter school. The sponsor may not include in a written notice pursuant to subsection 2 any deficiency which was included in a previous written notice and which was corrected by the charter school, unless the deficiency recurred after being corrected.

4. The sponsor of a charter school and the governing body of the charter school may enter into a written agreement that prescribes different time periods than those set forth in subsections 2 and 3.

**Sec. 4.** NRS 386.540 is hereby amended to read as follows:

386.540 1. The Department shall adopt regulations that prescribe:

(a) The process for submission of an application by the board of trustees of a school district to the Department for authorization to sponsor charter schools and the contents of the application;

(b) The process for submission of an application to form a charter school to the Department, the board of trustees of a school district, the ~~Subcommittee on Charter Schools~~ **State Board** and a college or university within the Nevada System of Higher Education, and the contents of the application;

(c) The process for submission of an application to renew a written charter; ~~and~~

(d) The criteria and type of investigation that must be applied by the board of trustees, ~~the Subcommittee on Charter Schools,~~ the State Board and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school, ~~for~~ an application to renew a written charter ~~[-]~~ **or a request for an amendment of a written charter; and**

**(e) The process for submission of an amendment of a written charter pursuant to NRS 386.527 and the contents of the application.**

2. The Department may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting;

(b) Requirements for performance audits and financial audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and

(c) Requirements for performance audits every 3 years and financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

**Sec. 5.** NRS 386.545 is hereby amended to read as follows:

386.545 1. The Department and the board of trustees of a school district shall:

(a) Upon request, provide information to the general public concerning the formation and operation of charter schools; and

(b) Maintain a list available for public inspection that describes the location of each charter school.

2. The sponsor of a charter school shall:

(a) Provide reasonable assistance to an applicant for a charter school and to a charter school in carrying out the provisions of NRS 386.500 to 386.610, inclusive;

(b) Provide technical and other reasonable assistance to a charter school for the operation of the charter school;

(c) Provide information to the governing body of a charter school concerning the availability of money for the charter school, including, without limitation, money available from the Federal Government; and

(d) Provide timely access to the electronic data concerning the pupils enrolled in the charter school that is maintained pursuant to NRS 386.650.

3. If the board of trustees of a school district is the sponsor of a charter school, the sponsor shall:

(a) Provide the charter school with an updated list of available substitute teachers within the school district.

(b) Provide access to school buses for use by the charter school for field trips. The school district may charge a reasonable fee for the use of the school buses.

(c) If the school district offers summer school or Internet-based credit recovery classes, allow the pupils enrolled in the charter school to participate if space is available. The school district shall apply the same fees, if any, for participation of the pupils enrolled in the charter school as it applies to pupils enrolled in the school district.

4. The Department shall provide appropriate information, education and training for charter schools and the governing bodies of charter schools concerning the applicable provisions of title 34 of NRS and other laws and regulations that affect charter schools and the governing bodies of charter schools.

***5. If the Department prescribes a process for charter schools to report certain information, the Department may request the identified information regardless if that information is required to be submitted by charter schools pursuant to a specific statute. Upon such a request, a charter school shall provide the information if the Department includes a detailed description of the requested information and the mechanism by which the Department will pay or reimburse the charter school for the requested information, if the provision of the information will incur any costs for the charter school.***

**Sec. 6.** NRS 386.549 is hereby amended to read as follows:

386.549 1. The governing body of a charter school ~~is~~:

~~(a) Must~~ **must** consist of:

~~((1) At least three teachers, as defined in subsection 5; or~~

~~(2) Two teachers, as defined in subsection 5, and one person~~

**(a) One member who is licensed pursuant to chapter 391 of NRS or who previously held such a license and is retired, as long as his or her license was held in good standing;**

**(b) One member who ~~previously held a license to teach pursuant to chapter 391 of NRS~~ :**

**(1) Satisfies the qualifications of paragraph (a); or**

**(2) Is a school administrator with a license issued by another state or who previously held such a license and is retired, as long as his or her license was held in good standing . ~~including, without limitation, a retired teacher.~~**

~~(b)~~

**(c) One parent or legal guardian of a pupil enrolled in the charter school who is not a teacher or an administrator at the charter school.**

~~{May consist of,}~~

**(d) Two members who possess knowledge and experience in one or more of the following areas:**

**(1) Accounting;**

**(2) Financial services;**

**(3) Law; or**

**(4) Human resources.**

**2. In addition to the members who serve pursuant to subsection 1, the governing body of a charter school may include, without limitation, parents and representatives of nonprofit organizations and businesses. Not more than two persons who serve on the governing body may represent the same organization or business or otherwise represent the interests of the same organization or business. A majority of the members of the governing body must reside in this State. If the membership of the governing body changes, the governing body shall provide written notice to the sponsor of the charter school within 10 working days after such change.**

~~{2.}~~ **3. A person may serve on the governing body only if the person submits an affidavit to the Department indicating that the person:**

**(a) Has not been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude.**

**(b) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to the person by the Department.**

~~{3-}~~ 4. The governing body of a charter school is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the charter school is established and to promote the welfare of pupils who are enrolled in the charter school.

~~{4-}~~ 5. The governing body of a charter school shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which the charter school is located. ***Upon an affirmative vote of a majority of the membership of the governing body, each member is entitled to receive a salary of not more than \$80 for attendance at each meeting, as fixed by the governing body, not to exceed payment for more than one meeting per month.***

~~{5-}~~ 6. As used in subsection 1, “teacher” means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS ~~{-}~~ ***or who previously held such a license and is retired, as long as his or her license was held in good standing;*** and

(b) Has at least 2 years of experience as an employed teacher.

➔ The term does not include a person who is employed as a substitute teacher.

**Sec. 7.** NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required by the Department contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled in ***grade 12 in*** the charter school ~~{who are required to take}~~ ***in the immediately preceding school year who have completed the required course work for graduation have passed*** the high school proficiency examination , ~~{have passed that examination,}~~ if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every



3 years. The sponsor of the charter school and the Department shall not request a performance audit of the charter school more frequently than every 3 years without reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school based upon the annual report submitted to the State Board pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Notwithstanding the provisions of paragraph (b) of subsection 1, such a charter school:

(a) May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of paragraphs (a), (c), (d) and (e) of subsection 1.

(b) Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

**Sec. 8.** NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located *or in which a pupil enrolled in the charter school resides* or the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers.

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in a class that is not available to the pupil at

the charter school or participate in an extracurricular activity, excluding ~~including~~ sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

➔ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding ~~including~~ sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

5. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in sports at the public school that he or she would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

➔ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.

6. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 4 and 5, ~~subsection 4~~ if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

**Sec. 9.** NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive,

unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose. ***The State Board shall prescribe a process which ensures that all charter schools, regardless of the sponsor, have information about all sources of funding for the public schools provided through the Department, including local funds pursuant to NRS 387.1235.***

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in an account with a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of each school quarter, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school quarter if the sponsor provided administrative services during that school quarter. The request must include an itemized list of those costs. Unless a delay is granted pursuant to subsection 9, upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school. If a governing body fails to pay the reimbursement pursuant to this subsection or pursuant to a plan approved by the Superintendent of Public Instruction in accordance with subsection 9, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special

education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

9. The governing body of a charter school may submit to the Superintendent of Public Instruction a written request to delay a quarterly payment of a reimbursement for the administrative costs that a charter school owes pursuant to this section. The written request must be in the form prescribed by the Superintendent and must include, without limitation, documentation that a financial hardship exists for the charter school and a plan for the payment of the reimbursement. The Superintendent may approve or deny the request and shall notify the governing body and the sponsor of the charter school of the approval or denial of the request.

**Sec. 9.5.** NRS 386.590 is hereby amended to read as follows:

386.590 1. Except as otherwise provided in this subsection, at least 70 percent of the teachers who provide instruction at a charter school must be licensed teachers. If a charter school is a vocational school, the charter school shall, to the extent practicable, ensure that at least 70 percent of the teachers who provide instruction at the school are licensed teachers, but in no event may more than 50 percent of the teachers who provide instruction at the school be unlicensed teachers.

2. A governing body of a charter school shall employ:

(a) If the charter school offers instruction in kindergarten or grade 1, 2, 3, 4, 5, 6, 7 or 8, a licensed teacher to teach pupils who are enrolled in those grades. If required by subsection 3 or 4, such a teacher must possess the qualifications required by 20 U.S.C. § 6319(a).

(b) If the charter school offers instruction in grade 9, 10, 11 or 12, a licensed teacher to teach pupils who are enrolled in those grades for the subjects set forth in subsection 4. If required by subsection 3 or 4, such a teacher must possess the qualifications required by 20 U.S.C. § 6319(a).

(c) In addition to the requirements of paragraphs (a) and (b):

(1) If a charter school specializes in arts and humanities, physical education or health education, a licensed teacher to teach those courses of study.

(2) If a charter school specializes in the construction industry or other building industry, licensed teachers to teach courses of study relating to the industry if those teachers are employed full-time.

(3) If a charter school specializes in the construction industry or other building industry and the school offers courses of study in computer

education, technology or business, licensed teachers to teach those courses of study if those teachers are employed full-time.

3. A person who is initially hired by the governing body of a charter school on or after January 8, 2002, to teach in a program supported with money from Title I must possess the qualifications required by 20 U.S.C. § 6319(a). For the purposes of this subsection, a person is not “initially hired” if the person has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his or her current employer.

4. A teacher who is employed by a charter school, regardless of the date of hire, must, on or before July 1, 2006, possess the qualifications required by 20 U.S.C. § 6319(a) if the teacher teaches one or more of the following subjects:

- (a) English, reading or language arts;
- (b) Mathematics;
- (c) Science;
- (d) Foreign language;
- (e) Civics or government;
- (f) Economics;
- (g) Geography;
- (h) History; or
- (i) The arts.

5. Except as otherwise provided in NRS 386.588, a charter school may employ a person who is not licensed pursuant to the provisions of chapter 391 of NRS to teach a course of study for which a licensed teacher is not required pursuant to subsections 2, 3 and 4 if the person has:

- (a) A degree, a license or a certificate in the field for which the person is employed to teach at the charter school; and
- (b) At least 2 years of experience in that field.

6. Except as otherwise provided in NRS 386.588, a charter school shall employ such administrators for the school as it deems necessary. A person employed as an administrator must possess:

- (a) A valid teacher’s license issued pursuant to chapter 391 of NRS with an administrative endorsement;
- (b) A master’s degree in school administration, public administration or business administration; or
- (c) At least 5 years of experience in school administration, public administration or business administration and a baccalaureate degree.

7. Except as otherwise provided in subsection 8, the portion of the salary or other compensation of an administrator employed by a charter school that is derived from public funds must not exceed the salary or other compensation, as applicable, of the highest paid administrator in a

comparable position in the school district in which the charter school is located. For purposes of determining the salary or other compensation of the highest paid administrator in a comparable position in the school district, the salary or other compensation of the superintendent of schools of that school district must not be included in the determination.

8. If the salary or other compensation paid to an administrator employed by a charter school from public funds exceeds the maximum amount prescribed in subsection 7, the sponsor of the charter school shall conduct an audit of the salary or compensation. The audit must include, without limitation, a review of the reasons set forth by the governing body of the charter school for the salary or other compensation and the interests of the public in using public funds to pay that salary or compensation. If the sponsor determines that the payment of the salary or other compensation from public funds is justified, the sponsor shall provide written documentation of its determination to the governing body of the charter school and to the Department. If the sponsor determines that the payment of the salary or other compensation from public funds is not justified, the governing body of the charter school shall reduce the salary or compensation paid to the administrator from public funds to an amount not to exceed the maximum amount prescribed in subsection 7.

9. A charter school shall not employ a person pursuant to this section if the person's license to teach or provide other educational services has been revoked or suspended in this State or another state.

10. On or before November 15 of each year, a charter school shall submit to the Department, in a format prescribed by the Superintendent of Public Instruction, the following information for each *person who is* licensed ~~employee~~ **pursuant to chapter 391 of NRS and** who is employed by the governing body on October 1 of that year:

(a) The amount of salary *or compensation* of the ~~employee~~ **licensed person**, including, without limitation, verification of compliance with subsection 7, if applicable to that ~~employee~~ **person**; and

(b) The designated assignment, as that term is defined by the Department, of the ~~employee~~ **licensed person**.

**Sec. 9.7.** NRS 386.595 is hereby amended to read as follows:

386.595 1. All employees of a charter school shall be deemed public employees.

2. The governing body of a charter school may make all decisions concerning the terms and conditions of employment with the charter school and any other matter relating to employment with the charter school. In addition, the governing body may make all employment decisions with regard to its employees pursuant to NRS 391.311 to 391.3197, inclusive, unless a collective bargaining agreement entered into by the governing body

pursuant to chapter 288 of NRS contains separate provisions relating to the discipline of licensed employees of a school.

3. *Upon the request of the governing body of a charter school, the board of trustees of a school district shall, with the permission of the licensed employee who is seeking employment with the charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the school district and any disciplinary action taken by the school district against the licensed employee.*

4. Except as otherwise provided in this subsection, if the written charter of a charter school is revoked or if a charter school ceases to operate as a charter school, the *licensed* employees of the charter school must be reassigned to employment within the school district in accordance with the applicable collective bargaining agreement. A school district is not required to reassign ~~an~~ *a licensed* employee of a charter school pursuant to this subsection if the employee:

(a) Was not granted a leave of absence by the school district to ~~teach~~ *accept employment* at the charter school pursuant to subsection ~~4; or~~ 5;

(b) Was granted a leave of absence by the school district and did not submit a written request to return to employment with the school district in accordance with subsection ~~4;~~

~~4;~~ 5; or

(c) *Does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school.*

5. The board of trustees of a school district ~~that is a sponsor of a charter school~~ shall grant a leave of absence, not to exceed 3 years, to any *licensed* employee who is employed by the board of trustees who requests such a leave of absence to accept employment with ~~the~~ *a* charter school. After the first school year in which ~~an~~ *a licensed* employee is on a leave of absence, the employee may return to ~~this or her former~~ *a comparable* teaching position with the board of trustees. After the third school year, ~~an~~ *a licensed* employee shall either submit a written request to return to a comparable teaching position or resign from the position for which the employee's leave was granted. The board of trustees shall grant a written request to return to a comparable position pursuant to this subsection even if the return of the *licensed* employee requires the board of trustees to reduce the existing workforce of the school district. *The board of trustees is not required to accept the return of the licensed employee if the employee does*



*not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school.* The board of trustees may require that a request to return to a *comparable* teaching position submitted pursuant to this subsection be submitted at least 90 days before the employee would otherwise be required to report to duty.

~~{5.—An}~~

6. *Upon the request of the board of trustees of a school district, the governing body of a charter school shall, with the permission of the licensed employee who is granted a leave of absence from the school district pursuant to this section, transmit to the school district a copy of the employment record of the employee that is maintained by the charter school before the return of the employee to employment with the school district pursuant to subsection 4 or 5. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the charter school and any disciplinary action taken by the charter school against the licensed employee. Before the return of the licensed employee, the board of trustees of the school district may conduct an investigation into any misconduct of the licensed employee during the leave of absence from the school district and take any appropriate disciplinary action as to the status of the person as an employee of the school district, including, without limitation:*

*(a) The dismissal of the employee from employment with the school district; or*

*(b) Upon the employee's return to employment with the school district, documentation of the disciplinary action taken against the employee into the employment record of the employee that is maintained by the school district.*

7. *If a school district conducts an investigation pursuant to subsection 6:*

*(a) The licensed employee is not entitled to return to employment with the school district until the investigation is complete; and*

*(b) The investigation must be conducted within a reasonable time.*

8. *A licensed employee who is on a leave of absence from a school district pursuant to this section:*

*(a) Shall contribute to and be eligible for all benefits for which the employee would otherwise be entitled, including, without limitation, participation in the Public Employees' Retirement System and accrual of time for the purposes of leave and retirement.*

(b) Continues, while the employee is on leave, to be covered by the collective bargaining agreement of the school district only with respect to any matter relating to his or her status or employment with the district.

↪ The time during which such an employee is on a leave of absence and employed in a charter school does not count toward the acquisition of permanent status with the school district.

~~{6.}~~ **9.** Upon the return of a teacher to employment in the school district, the teacher is entitled to the same level of retirement, salary and any other benefits to which the teacher would otherwise be entitled if the teacher had not taken a leave of absence to teach in a charter school.

~~{7.}~~ **10.** An employee of a charter school who is not on a leave of absence from a school district is eligible for all benefits for which the employee would be eligible for employment in a public school, including, without limitation, participation in the Public Employees' Retirement System.

~~{8.}~~ **11.** For all employees of a charter school:

(a) The compensation that a teacher or other school employee would have received if he or she were employed by the school district must be used to determine the appropriate levels of contribution required of the employee and employer for purposes of the Public Employees' Retirement System.

(b) The compensation that is paid to a teacher or other school employee that exceeds the compensation that the employee would have received if he or she were employed by the school district must not be included for the purposes of calculating future retirement benefits of the employee.

~~{9.}~~ **12.** If the board of trustees of a school district in which a charter school is located manages a plan of group insurance for its employees, the governing body of the charter school may negotiate with the board of trustees to participate in the same plan of group insurance that the board of trustees offers to its employees. If the employees of the charter school participate in the plan of group insurance managed by the board of trustees, the governing body of the charter school shall:

(a) Ensure that the premiums for that insurance are paid to the board of trustees; and

(b) Provide, upon the request of the board of trustees, all information that is necessary for the board of trustees to provide the group insurance to the employees of the charter school.

**Sec. 10.** NRS 392.700 is hereby amended to read as follows:

392.700 1. If the parent of a child who is subject to compulsory attendance wishes to homeschool the child, the parent must file with the superintendent of schools of the school district in which the child resides a written notice of intent to homeschool the child. The Department shall develop a standard form for the notice of intent to homeschool. The form

must not require any information or assurances that are not otherwise required by this section or other specific statute. The board of trustees of each school district shall, in a timely manner, make only the form developed by the Department available to parents who wish to homeschool their child.

2. The notice of intent to homeschool must be filed before beginning to homeschool the child or:

(a) Not later than 10 days after the child has been formally withdrawn from enrollment in public school; or

(b) Not later than 30 days after establishing residency in this State.

3. The purpose of the notice of intent to homeschool is to inform the school district in which the child resides that the child is exempt from the requirement of compulsory attendance.

4. If the name or address of the parent or child as indicated on a notice of intent to homeschool changes, the parent must, not later than 30 days after the change, file a new notice of intent to homeschool with the superintendent of schools of the school district in which the child resides.

5. A notice of intent to homeschool must include only the following:

(a) The full name, age and gender of the child;

(b) The name and address of each parent filing the notice of intent to homeschool;

(c) A statement signed and dated by each such parent declaring that the parent has control or charge of the child and the legal right to direct the education of the child, and assumes full responsibility for the education of the child while the child is being homeschooled;

(d) An educational plan for the child that is prepared pursuant to subsection 12;

(e) If applicable, the name of the public school in this State which the child most recently attended; and

(f) An optional statement that the parent may sign which provides:

I expressly prohibit the release of any information contained in this document, including, without limitation, directory information as defined in 20 U.S.C. § 1232g(a)(5)(A), without my prior written consent.

6. Each superintendent of schools of a school district shall accept notice of intent to homeschool that is filed with the superintendent pursuant to this section and meets the requirements of subsection 5, and shall not require or request any additional information or assurances from the parent who filed the notice.

7. The school district shall provide to a parent who files a notice a written acknowledgment which clearly indicates that the parent has provided notification required by law and that the child is being homeschooled. The written acknowledgment shall be deemed proof of compliance with Nevada's compulsory school attendance law. The school district shall retain a copy of

the written acknowledgment for not less than 15 years. The written acknowledgment may be retained in electronic format.

8. The superintendent of schools of a school district shall process a written request for a copy of the records of the school district, or any information contained therein, relating to a child who is being or has been homeschooled not later than 5 days after receiving the request. The superintendent of schools may only release such records or information:

(a) To a person or entity specified by the parent of the child, or by the child if the child is at least 18 years of age, upon suitable proof of identity of the parent or child; or

(b) If required by specific statute.

9. If a child who is or was homeschooled seeks admittance or entrance to any school in this State, the school may use only commonly used practices in determining the academic ability, placement or eligibility of the child. ***If the child enrolls in a charter school, the charter school shall, to the extent practicable, notify the board of trustees of the school district in which the child resides of the child's enrollment in the charter school. Regardless of whether the charter school provides such notification to the board of trustees, the charter school may count the child who is enrolled for the purposes of the calculation of basic support pursuant to NRS 387.1233.*** A homeschooled child seeking admittance to public high school must comply with NRS 392.033.

10. A school or organization shall not discriminate in any manner against a child who is or was homeschooled.

11. Each school district shall allow homeschooled children to participate in the high school proficiency examination administered pursuant to NRS 389.015 and all college entrance examinations offered in this State, including, without limitation, the ~~{Scholastic Aptitude Test,}~~ ***SAT***, the ~~{American College Test,}~~ ***ACT***, the Preliminary ~~{Scholastic Aptitude Test}~~ ***SAT*** and the National Merit Scholarship Qualifying Test. Each school district shall ensure that the homeschooled children who reside in the school district have adequate notice of the availability of information concerning such examinations on the Internet website of the school district maintained pursuant to NRS 389.004.

12. The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English, including reading, composition and writing, mathematics, science and social studies, including history, geography, economics and government, as appropriate for the age and level of skill of the child as determined by the parent. The educational plan must be included in the notice of intent to homeschool filed pursuant to this section. If the educational plan contains the requirements of this section, the educational plan must not be used in any

manner as a basis for denial of a notice of intent to homeschool that is otherwise complete. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court. This subsection does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.

13. No regulation or policy of the State Board, any school district or any other governmental entity may infringe upon the right of a parent to educate his or her child based on religious preference unless it is:

- (a) Essential to further a compelling governmental interest; and
- (b) The least restrictive means of furthering that compelling governmental interest.

14. As used in this section, “parent” means the parent, custodial parent, legal guardian or other person in this State who has control or charge of a child and the legal right to direct the education of the child.

**Sec. 11.** NRS 386.507 is hereby repealed.

**Sec. 12.** The Legislative Counsel shall, in preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose duties are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

**Sec. 13.** This act becomes effective on July 1, 2011.

#### TEXT OF REPEALED SECTION

**386.507 Subcommittee on Charter Schools: Appointment of members; terms.** The Subcommittee on Charter Schools of the State Board is hereby created. The President of the State Board shall appoint three members of the State Board to serve on the Subcommittee. Except as otherwise provided in this section, the members of the Subcommittee serve terms of 2 years. If a member is not reelected to the State Board during his or her service on the Subcommittee, the term of the member on the Subcommittee expires when his or her membership on the State Board expires. Members of the Subcommittee may be reappointed.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 65.

Bill read third time.

Roll call on Senate Bill No. 65:

YEAS—40.

NAYS—Livermore.

EXCUSED—Grady.

Senate Bill No. 65 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 110.

Bill read third time.

Roll call on Senate Bill No. 110:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 110 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 133.

Bill read third time.

Roll call on Senate Bill No. 133:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 133 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 140.

Bill read third time.

Roll call on Senate Bill No. 140:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 140 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 151.

Bill read third time.

Roll call on Senate Bill No. 151:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 151 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 159.

Read third time.

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

Assembly in recess at 11:17 a.m.

#### ASSEMBLY IN SESSION

At 11:20 a.m.

Mr. Speaker presiding.

Quorum present.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 159 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 187.

Bill read third time.

Remarks by Assemblyman Kite.

Roll call on Senate Bill No. 187:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 187 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 238.

Bill read third time.

Roll call on Senate Bill No. 238:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 238 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 251.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 251:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 251 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 282.

Bill read third time.

Roll call on Senate Bill No. 282:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 282 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 304.

Bill read third time.

Remarks by Assemblymen Livermore, Kirner, Hickey, Kirkpatrick, Segerblom, and Sherwood.

Roll call on Senate Bill No. 304:

YEAS—29.

NAYS—Ellison, Goedhart, Goicoechea, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, McArthur, Woodbury—12.

EXCUSED—Grady.

Senate Bill No. 304 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 321.

Bill read third time.

Roll call on Senate Bill No. 321:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 321 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 329.

Bill read third time.

Roll call on Senate Bill No. 329:

YEAS—39.

NAYS—Livermore, McArthur—2.

EXCUSED—Grady.

Senate Bill No. 329 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.



Senate Bill No. 348.

Bill read third time.

Remarks by Assemblymen Frierson, Hickey, Horne, Hansen, and Brooks.

Roll call on Senate Bill No. 348:

YEAS—26.

NAYS—Ellison, Goedhart, Goicoechea, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—15.

EXCUSED—Grady.

Senate Bill No. 348 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 376.

Bill read third time.

Roll call on Senate Bill No. 376:

YEAS—39.

NAYS—Diaz, Ohrenschall—2.

EXCUSED—Grady.

Senate Bill No. 376 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 381.

Bill read third time.

Remarks by Assemblymen Horne and Pierce.

Roll call on Senate Bill No. 381:

YEAS—35.

NAYS—Aizley, Carlton, Hardy, Kirner, Mastroluca, Pierce—6.

EXCUSED—Grady.

Senate Bill No. 381 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 400.

Bill read third time.

Roll call on Senate Bill No. 400:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 400 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 419.

Bill read third time.

Roll call on Senate Bill No. 419:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 419 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 419.

The following Senate amendment was read:

Amendment No. 789.

AN ACT relating to water; requiring the State Engineer to designate certain groundwater basins as critical management areas in certain circumstances; requiring the State Engineer to take certain actions in such a basin unless a groundwater management plan has been approved for the basin; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Engineer has various powers and duties with respect to regulating the groundwater in this State. (Chapter 534 of NRS) **Section 3** of this bill requires the State Engineer to designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin upon the petition of a majority of the holders of certificates or permits to appropriate water in the basin that are on file in the Office of the State Engineer. If a basin is so designated for at least 10 consecutive years, **section 3** requires the State Engineer to order that withdrawals of groundwater be restricted in the basin to conform to priority rights, unless a groundwater management plan has been approved for the basin. **Section 1** of this bill prescribes the procedure for the proposal, approval and revision of such a plan. **Section 2** of this bill includes the existence of a groundwater management plan in a basin as a consideration for the State Engineer in determining whether to grant a request for an extension of the time necessary to work a forfeiture of water in such a basin.

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

**Section 1.** Chapter 534 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. In a basin that has been designated as a critical management area by the State Engineer pursuant to subsection 7 of NRS 534.110, a petition**

*for the approval of a groundwater management plan for the basin may be submitted to the State Engineer. The petition must be signed by a majority of the holders of permits or certificates to appropriate water in the basin that are on file in the Office of the State Engineer and must be accompanied by a groundwater management plan which must set forth the necessary steps for removal of the basin's designation as a critical management area.*

*2. In determining whether to approve a groundwater management plan submitted pursuant to subsection 1, the State Engineer shall consider, without limitation:*

- (a) The hydrology of the basin;*
- (b) The physical characteristics of the basin;*
- (c) ~~[(c)]~~ The relationship between surface water and groundwater in the basin;*
- ~~[(d)]~~ (d) The geographic spacing and location of the withdrawals of groundwater in the basin;*
- ~~[(e)]~~ (e) The quality of the water in the basin;*
- ~~[(f)]~~ (f) The wells located in the basin, including, without limitation, domestic wells;*
- ~~[(g)]~~ (g) Whether a groundwater management plan already exists for the basin; and*
- ~~[(h)]~~ (h) Any other factor deemed relevant by the State Engineer.*

*3. Before approving or disapproving a groundwater management plan submitted pursuant to subsection 1, the State Engineer shall hold a public hearing to take testimony on the plan in the county where the basin lies or, if the basin lies in more than one county, within the county where the major portion of the basin lies. The State Engineer shall cause notice of the hearing to be:*

- (a) Given once each week for 2 consecutive weeks before the hearing in a newspaper of general circulation in the county or counties in which the basin lies.*
- (b) Posted on the Internet website of the State Engineer for at least 2 consecutive weeks immediately preceding the date of the hearing.*

*4. The decision of the State Engineer on a groundwater management plan may be reviewed by the district court of the county pursuant to NRS 533.450.*

*5. An amendment to a groundwater management plan must be proposed and approved in the same manner as an original groundwater management plan is proposed and approved pursuant to this section.*

**Sec. 2.** NRS 534.090 is hereby amended to read as follows:

534.090 1. Except as otherwise provided in this section, failure for 5 successive years after April 15, 1967, on the part of the holder of any right,

whether it is an adjudicated right, an unadjudicated right or a permitted right, and further whether the right is initiated after or before March 25, 1939, to use beneficially all or any part of the underground water for the purpose for which the right is acquired or claimed, works a forfeiture of both undetermined rights and determined rights to the use of that water to the extent of the nonuse. If the records of the State Engineer or any other documents specified by the State Engineer indicate at least 4 consecutive years, but less than 5 consecutive years, of nonuse of all or any part of a water right which is governed by this chapter, the State Engineer shall notify the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail that the owner has 1 year after the date of the notice in which to use the water right beneficially and to provide proof of such use to the State Engineer or apply for relief pursuant to subsection 2 to avoid forfeiting the water right. If, after 1 year after the date of the notice, proof of beneficial use is not sent to the State Engineer, the State Engineer shall, unless the State Engineer has granted a request to extend the time necessary to work a forfeiture of the water right, declare the right forfeited within 30 days. Upon the forfeiture of a right to the use of groundwater, the water reverts to the public and is available for further appropriation, subject to existing rights. If, upon notice by registered or certified mail to the owner of record whose right has been declared forfeited, the owner of record fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the forfeiture becomes final. The failure to receive a notice pursuant to this subsection does not nullify the forfeiture or extend the time necessary to work the forfeiture of a water right.

2. The State Engineer may, upon the request of the holder of any right described in subsection 1, extend the time necessary to work a forfeiture under that subsection if the request is made before the expiration of the time necessary to work a forfeiture. The State Engineer may grant, upon request and for good cause shown, any number of extensions, but a single extension must not exceed 1 year. In determining whether to grant or deny a request, the State Engineer shall, among other reasons, consider:

(a) Whether the holder has shown good cause for the holder's failure to use all or any part of the water beneficially for the purpose for which the holder's right is acquired or claimed;

(b) The unavailability of water to put to a beneficial use which is beyond the control of the holder;

(c) Any economic conditions or natural disasters which made the holder unable to put the water to that use;

(d) Any prolonged period in which precipitation in the basin where the water right is located is below the average for that basin or in which indexes

that measure soil moisture show that a deficit in soil moisture has occurred in that basin; ~~and~~

(e) *Whether a groundwater management plan has been approved for the basin pursuant to section 1 of this act; and*

(f) Whether the holder has demonstrated efficient ways of using the water for agricultural purposes, such as center-pivot irrigation.

➔ The State Engineer shall notify, by registered or certified mail, the owner of the water right, as determined in the records of the Office of the State Engineer, of whether the State Engineer has granted or denied the holder's request for an extension pursuant to this subsection.

3. If the failure to use the water pursuant to subsection 1 is because of the use of center-pivot irrigation before July 1, 1983, and such use could result in a forfeiture of a portion of a right, the State Engineer shall, by registered or certified mail, send to the owner of record a notice of intent to declare a forfeiture. The notice must provide that the owner has at least 1 year after the date of the notice to use the water beneficially or apply for additional relief pursuant to subsection 2 before forfeiture of the owner's right is declared by the State Engineer.

4. A right to use underground water whether it is vested or otherwise may be lost by abandonment. If the State Engineer, in investigating a groundwater source, upon which there has been a prior right, for the purpose of acting upon an application to appropriate water from the same source, is of the belief from his or her examination that an abandonment has taken place, the State Engineer shall so state in the ruling approving the application. If, upon notice by registered or certified mail to the owner of record who had the prior right, the owner of record of the prior right fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the alleged abandonment declaration as set forth by the State Engineer becomes final.

**Sec. 3.** NRS 534.110 is hereby amended to read as follows:

534.110 1. The State Engineer shall administer this chapter and shall prescribe all necessary regulations within the terms of this chapter for its administration.

2. The State Engineer may:

(a) Require periodical statements of water elevations, water used, and acreage on which water was used from all holders of permits and claimants of vested rights.

(b) Upon his or her own initiation, conduct pumping tests to determine if overpumping is indicated, to determine the specific yield of the aquifers and to determine permeability characteristics.

3. The State Engineer shall determine whether there is unappropriated water in the area affected and may issue permits only if the determination is

affirmative. The State Engineer may require each applicant to whom a permit is issued for a well:

(a) For municipal, quasi-municipal or industrial use; and

(b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

➡ to report periodically to the State Engineer concerning the effect of that well on other previously existing wells that are located within 2,500 feet of the well.

4. It is a condition of each appropriation of groundwater acquired under this chapter that the right of the appropriator relates to a specific quantity of water and that the right must allow for a reasonable lowering of the static water level at the appropriator's point of diversion. In determining a reasonable lowering of the static water level in a particular area, the State Engineer shall consider the economics of pumping water for the general type of crops growing and may also consider the effect of using water on the economy of the area in general.

5. This section does not prevent the granting of permits to applicants later in time on the ground that the diversions under the proposed later appropriations may cause the water level to be lowered at the point of diversion of a prior appropriator, so long as any protectable interests in existing domestic wells as set forth in NRS 533.024 and the rights of holders of existing appropriations can be satisfied under such express conditions. At the time a permit is granted for a well:

(a) For municipal, quasi-municipal or industrial use; and

(b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

➡ the State Engineer shall include as a condition of the permit that pumping water pursuant to the permit may be limited or prohibited to prevent any unreasonable adverse effects on an existing domestic well located within 2,500 feet of the well, unless the holder of the permit and the owner of the domestic well have agreed to alternative measures that mitigate those adverse effects.

6. ~~{The}~~ ***Except as otherwise provided in subsection 7, the*** State Engineer shall conduct investigations in any basin or portion thereof where it appears that the average annual replenishment to the groundwater supply may not be adequate for the needs of all permittees and all vested-right claimants, and if the findings of the State Engineer so indicate, the State Engineer may order that withdrawals , ***including, without limitation, withdrawals from domestic wells,*** be restricted to conform to priority rights.

7. ***The State Engineer:***

*(a) May designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin.*

*(b) Shall designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin upon receipt of a petition for such a designation which is signed by a majority of the holders of certificates or permits to appropriate water in the basin that are on file in the Office of the State Engineer.*

*↪ The designation of a basin as a critical management area pursuant to this subsection may be appealed pursuant to NRS 533.450. If a basin has been designated as a critical management area for at least 10 consecutive years, the State Engineer shall order that withdrawals, including, without limitation, withdrawals from domestic wells, be restricted in that basin to conform to priority rights, unless a groundwater management plan has been approved for the basin pursuant to section 1 of this act.*

8. In any basin or portion thereof in the State designated by the State Engineer, the State Engineer may restrict drilling of wells in any portion thereof if the State Engineer determines that additional wells would cause an undue interference with existing wells. Any order or decision of the State Engineer so restricting drilling of such wells may be reviewed by the district court of the county pursuant to NRS 533.450.

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

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 419.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered enrolled.

#### APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Diaz, Anderson, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 39.

Mr. Speaker appointed Assemblywomen Dondero Loop, Neal, and Woodbury as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 40.

Mr. Speaker appointed Assemblymen Atkinson, Bustamante Adams, and Goedhart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 20.

Mr. Speaker appointed Assemblymen Bobzien, Mastroluca, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 498.

## REPORTS OF COMMITTEES

*Mr. Speaker:*

Your Committee on Judiciary, to which was referred Senate Bill No. 126, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM C. HORNE, *Chair*

Assemblyman Conklin moved that the Assembly recess until 3 p.m.

Motion carried.

Assembly in recess at 12 noon.

## ASSEMBLY IN SESSION

At 6:39 p.m.

Mr. Speaker presiding.

Quorum present.

## REPORTS OF COMMITTEES

*Mr. Speaker*

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 43, 113, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

APRIL MASTROLUCA, *Chair*

*Mr. Speaker:*

Your Committee on Taxation, to which was referred Assembly Bill No. 572, 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 Taxation, to which was referred Senate Bill No. 249, 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 Ways and Means, to which was referred Assembly Bill No. 449, 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 Ways and Means, to which was rereferred Assembly Bill No. 307, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 453, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

Also, your Committee on Ways and Means, to which was rereferred Senate Bill No. 154, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEBBIE SMITH, *Chair*



## MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Legislative Operations and Elections:

Assembly Resolution No. 9—Designating certain members of the Assembly as regular and alternate members of the Legislative Commission for the 2011-2013 biennium.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That pursuant to the provisions of NRS 218E.150 and the Joint Standing Rules of the Legislature, the following Assemblymen are designated regular and alternate members of the Legislative Commission to serve until their successors are designated: Mr. Marcus Conklin, Ms. Debbie Smith, Ms. Marilyn K. Kirkpatrick, Mr. Lynn D. Stewart, Mr. Richard McArthur and Mr. Ira Hansen are designated as the regular Assembly members; Mr. William C. Horne and Mr. Tick Segerblom are designated as the first and second alternate members, respectively, for Mr. Marcus Conklin; Mr. David Bobzien and Ms. Teresa Benitez-Thompson are designated as the first and second alternate members, respectively, for Ms. Debbie Smith; Mr. Kelvin Atkinson and Ms. April Mastroluca are designated as the first and second alternate members, respectively, for Ms. Marilyn K. Kirkpatrick; Mr. Kelly Kite and Ms. Melissa Woodbury are designated as the first and second alternate members, respectively, for Mr. Lynn D. Stewart; Mr. Pete Livermore and Mr. Mark Sherwood are designated as the first and second alternate members, respectively, for Mr. Richard McArthur; and Mr. Edwin Alex Goedhart and Mr. Scott Hammond are designated as the first and second alternate members, respectively, for Mr. Ira Hansen.

Assemblyman Segerblom moved the adoption of the resolution.

Remarks by Assemblyman Segerblom.

Resolution adopted.

## INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 574—AN ACT relating to breaches of contracts for public works; revising the provisions of Assembly Bill No. 144 of this session relating to a material breach of certain contracts; providing for a study of the availability of sureties for parties entering into such contracts; appropriating money for a consultant for such a study; and providing other matters properly relating thereto.

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

Motion carried.

## GENERAL FILE AND THIRD READING

Assembly Bill No. 307.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 828.

SUMMARY—~~[Requires the monitoring of the effects of certain]~~ **Enacts provisions governing** energy development projects ~~\_. [on wildlife.]~~  
(BDR 45-872)

AN ACT relating to governmental administration; ~~prohibiting a person from commencing the construction of~~ **requiring a person who files certain applications for** an energy development project ~~without first filing~~ **to file** a notice **concurrently** with the ~~Office of Energy within the Office of the Governor~~ **Department of Wildlife**; **requiring the Department of Wildlife to adopt regulations for the provision of information relating to wildlife based on the location of an energy development project**; **authorizing a developer of an energy development project to request the Director of the Office of Energy to coordinate certain discussions relating to an energy development project in certain circumstances**; creating the Energy Planning and Conservation Fund; requiring the ~~Office of Energy to coordinate with the~~ Department of Wildlife to use money from the **Energy Planning and Conservation** Fund for certain wildlife ~~monitoring~~ activities; **creating the Fund for the Recovery of Costs**; **requiring the Department of Wildlife to use money from the Fund for the Recovery of Costs solely to provide certain information relating to wildlife based on the location of an energy development project**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Department of Wildlife and requires the Department to administer the wildlife laws of this State. (NRS 501.331) Existing law also creates the Office of Energy within the Office of the Governor to analyze, review and study the use of energy and availability of energy in this State, as well as to coordinate activities with other agencies to administer programs related to the use of renewable energy and to conserve or reduce the demand for energy. (NRS 701.150, 701.180) This bill requires the Department of Wildlife and the Office of Energy to cooperate in ~~monitoring the effects of~~ **acting as a resource for the Federal Government, the Public Utilities Commission of Nevada, the counties of this State and the public by compiling and providing certain information relating to** certain energy development projects. ~~on wildlife and its habitat.~~

Section 5 of this bill defines an "energy development project" as any project for the generation, transmission and development of energy, whether on public or private land. Section 6 of this bill exempts from the provisions of this bill ~~projects and systems: (1) which have~~ **a project that has** a **generating** capacity of ~~not more~~ **less** than ~~400 kilowatts~~; ~~(2) which are attached to school property or private residential property; or (3) which do not require the disturbance of any soil from the provisions of this bill.~~ **10 megawatts.**

Section 7 of this bill requires any person who ~~wishes to commence construction of~~ **files an application with the Federal Government for a lease or easement for a right-of-way for** an energy development project **or**

an application with the Public Utilities Commission of Nevada or any county in this State relating to the construction of an energy development project to file a notice concurrently with the ~~{Office of Energy at the same time that the person files for any permits, leases or easements for rights of way required by state or federal law.}~~ **Department of Wildlife.** The notice required by **section 7** must include a description of the location, boundaries and estimated infrastructure requirements for the project and a description of the project itself and an estimate of the energy output of the project. **Section 7** further requires ~~{a person to pay both a filing fee of not more than \$500 and a second fee of at least \$35,000 but not more than \$100,000 based upon the potential of the energy development project for impact on wildlife and its habitat, the acreage of the energy development project and the area of land to be disturbed by the energy development project. The Office of Energy is required to establish the second fee in consultation with the Department of Wildlife, and those fees are to be deposited in the Energy Planning and Conservation Fund created by section 9 of this bill.}~~ the Department to provide a copy of the notice to the Office of Energy and requires the Department, in consultation with the Office of Energy, to adopt regulations to provide for making reasonable deposits and reimbursing the Department for providing information relating to wildlife or wildlife habitat based on the location of an energy development project and to allow for developers to request the Director of the Office of Energy to coordinate discussions with interested parties concerning the potential effects of energy development projects.

**Section 9 of this bill creates the Energy Planning and Conservation Fund and** requires the money in the Fund to be administered by the Director of the ~~{Office of Energy}~~ **Department of Wildlife** and used by the Department ~~{of Wildlife}~~ in accordance with the State Wildlife Action Plan for conducting surveys of wildlife, for mapping locations of wildlife and its habitat, ~~{and}~~ for conservation projects for the habitat of wildlife impacted by energy development projects ~~{,}~~ and to match any federal money for a project or program for the conservation of any species of wildlife which is of critical concern. **Section 9.5 of this bill creates the Fund for the Recovery of Costs and requires the money in the Fund to be administered by the Director of the Department of Wildlife and used by the Department solely to provide to the Federal Government, the Public Utilities Commission of Nevada or any person with information relating to wildlife or wildlife habitat based on the location of an energy development project or to match any federal money for a project or program for the conservation of any species of wildlife.**

**Section 8** of this bill requires the ~~{Office of Energy}~~ **Department of Wildlife** to compile and maintain information on all energy development

projects for which notice is filed pursuant to **section 7** and to prepare and submit a report detailing such projects to the Legislative Commission in even-numbered years and, in odd-numbered years, to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

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

**Section 1.** NRS 501.331 is hereby amended to read as follows:

501.331 The Department of Wildlife is hereby created. The Department:

1. Shall administer the wildlife laws of this State , ~~and~~ chapter 488 of NRS ~~1-1 and sections 7 and 9~~ to 9.5, inclusive, of this act.

2. Shall, on or before the fifth calendar day of each regular session of the Legislature, submit to the Legislature a financial report for each of the immediately preceding 2 fiscal years setting forth the activity and status of the Wildlife Obligated Reserve Account in the State General Fund, each subaccount within that Account and any other account or subaccount administered by the Department for which the use of the money in the account or subaccount is restricted. The report must include, without limitation:

(a) A description of each project for which money is expended from each of those accounts and subaccounts and a description of each recipient of that money; and

(b) The total amount of money expended from each of those accounts and subaccounts for each fiscal year, including, without limitation, the amount of any matching contributions received for those accounts and subaccounts for each fiscal year.

**Sec. 2.** NRS 501.337 is hereby amended to read as follows:

501.337 The Director shall:

1. Carry out the policies and regulations of the Commission.

2. Direct and supervise all administrative and operational activities of the Department, and all programs administered by the Department as provided by law. Except as otherwise provided in NRS 284.143, the Director shall devote his or her entire time to the duties of the office and shall not follow any other gainful employment or occupation.

3. Within such limitations as may be provided by law, organize the Department and, from time to time with the consent of the Commission, may alter the organization. The Director shall reassign responsibilities and duties as he or she may deem appropriate.

4. Appoint or remove such technical, clerical and operational staff as the execution of his or her duties and the operation of the Department may require, and all those employees are responsible to the Director for the proper carrying out of the duties and responsibilities of their respective positions.

The Director shall designate a number of employees as game wardens and provide for their training.

5. Submit technical and other reports to the Commission as may be necessary or as may be requested, which will enable the Commission to establish policy and regulations.

6. Prepare, in consultation with the Commission, the biennial budget of the Department consistent with the provisions of this title, ~~and~~ chapter 488 of NRS ~~and sections 7 and 9~~ **to 9.5, inclusive, of this act** and submit it to the Commission for its review and recommendation before the budget is submitted to the Chief of the Budget Division of the Department of Administration pursuant to NRS 353.210.

7. Administer real property assigned to the Department.

8. Maintain full control, by proper methods and inventories, of all personal property of the State acquired and held for the purposes contemplated by this title and by chapter 488 of NRS.

9. Act as nonvoting Secretary to the Commission.

**10. Adopt the regulations required pursuant to sections 7 and 9 of this act.**

**Sec. 3.** NRS 501.356 is hereby amended to read as follows:

501.356 1. Money received by the Department from:

(a) The sale of licenses;  
(b) Fees pursuant to the provisions of NRS 488.075 and 488.1795;  
(c) Remittances from the State Treasurer pursuant to the provisions of NRS 365.535;

(d) Appropriations made by the Legislature; and

(e) All other sources, except money derived from the forfeiture of any property described in NRS 501.3857 or money deposited in the Wildlife Heritage Trust Account pursuant to NRS 501.3575, ~~for in~~ the Trout Management Account pursuant to NRS 502.327, ~~for money received from the Director of the Office of Energy from the Energy Planning and Conservation Fund created by section 9 of this act, or the Fund for the Recovery of Costs created by section 9.5 of this act.~~

↪ must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.

2. The interest and income earned on the money in the Wildlife Account, after deducting any applicable charges, must be credited to the Account.

3. Except as otherwise provided in subsection 4, the Department may use money in the Wildlife Account only to carry out the provisions of this title and chapter 488 of NRS and as provided in NRS 365.535, and the money must not be diverted to any other use.

4. Except as otherwise provided in NRS 502.250 and 504.155, all fees for the sale or issuance of stamps, tags, permits and licenses that are required

to be deposited in the Wildlife Account pursuant to the provisions of this title and any matching money received by the Department from any source must be accounted for separately and must be used:

- (a) Only for the management of wildlife; and
- (b) If the fee is for the sale or issuance of a license, permit or tag other than a tag specified in subsection 5 or 6 of NRS 502.250, under the guidance of the Commission pursuant to subsection 2 of NRS 501.181.

**Sec. 4.** Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to ~~10,~~ **9.5**, inclusive, of this act.

**Sec. 5.** *“Energy development project” means a project for the generation, transmission and development of energy located on public or private land. The term includes, without limitation:*

*1. A utility facility, as defined in NRS 704.860, constructed on private land; and*

*2. Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity, ~~and which have or will have a nameplate capacity of not more than 70 megawatts, including, without limitation, a net metering system, as defined in NRS 704.771, constructed on private land.~~*

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

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

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

~~*3. A project or energy system the construction of which does not require the disturbance of any soil, including, without limitation, projects or systems constructed on an existing structure or atop existing pavement.*~~ *a project that has a generating capacity of less than 10 megawatts.*

**Sec. 7. 1.** *Except as otherwise provided in section 6 of this act, a person ~~shall not commence construction of~~ who files an application with the Federal Government for a lease or easement for a right-of-way for an energy development project ~~without first filing~~ or an application with the Public Utilities Commission of Nevada or any county in this State relating to the construction of an energy development project shall, concurrently with the filing of the application, file a notice of the energy development project with the ~~Office of Energy,~~ Department of Wildlife.*

*2. The notice required by subsection 1 must be ~~the~~*  
~~*(a) Provided,*~~ *provided to the Department of Wildlife*  
*in such form as the Department prescribes and contain:*

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

~~[(2)]~~ (b) *A description of the boundaries of the project and the estimated requirements for infrastructure of the project; and*

~~[(3)]~~ (c) *The estimated energy output for the energy development project.* ~~†~~

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

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

~~or~~

~~(2) Any state or local governmental entity; and~~

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

3. ~~[In addition to the fee required by subsection 2, the Office of Energy]~~  
Within 30 days after a notice is filed pursuant to subsection 1, the Department of Wildlife shall provide a copy of the notice to the Office of Energy.

4. The Department of Wildlife shall, in consultation with the  
~~[Department of Wildlife, establish and collect a fee for each energy development project of at least \$35,000 but not more than \$100,000, pursuant to a schedule of fees set forth in regulations adopted by the Office based on the potential for impact on wildlife and its habitat and the acreage of the energy development project, including, without limitation, any roads used for access to the energy development project and the area of land disturbed by the energy development project.]~~ Office of Energy, adopt regulations to carry out the provisions of this section. The regulations must include, without limitation:

(a) Provisions setting forth the requirements for making reasonable deposits and reimbursing the Department of Wildlife for the actual costs, not to exceed \$100,000, incurred by the Department of Wildlife for providing to the Federal Government, the Public Utilities Commission of Nevada, an applicant or any county in this State any information relating to any wildlife or wildlife habitat based on the location of the energy development project for which a notice is filed pursuant to subsection 1;

(b) Provisions setting forth the requirements for allowing a developer of an energy development project or a local government in a county in which an energy development project is proposed to be located to request the Director of the Office of Energy to coordinate discussions, not otherwise required by any existing regulatory agency, with interested parties concerning any potential effect of the energy development project; and

(c) Except as otherwise provided in subsection 5, any other requirements concerning the filing of a notice pursuant to subsection 1.

5. Any regulations adopted pursuant to subsection 4 must not require a person to reimburse any costs incurred by the Department of Wildlife for providing any information requested by the Federal Government, the Public Utilities Commission of Nevada or an applicant relating to an energy development project that was previously provided pursuant to paragraph (a) of subsection 4.

Sec. 8. ~~The {Office of Energy}~~ Department of Wildlife shall:

1. Compile and maintain detailed information concerning each energy development project for which notice is filed pursuant to section 7 of this act. The information must include, without limitation:

- (a) The location of the energy development project;
  - (b) A description of the energy development project; ~~and~~
  - (c) The estimated energy output of the energy development project ~~{ }~~;
- and

(d) The amount charged for the reimbursement of costs for the energy development project in accordance with the regulations specified in subsection 4 of section 7 of this act.

2. Prepare a report ~~{containing}~~ :

- (a) Containing the information compiled pursuant to subsection 1 ~~{ }~~;
- and

(b) Setting forth the effect, if any, on the budget of the Department of Wildlife as a result of receiving the reimbursement of costs for providing information concerning energy development projects and the manner in which the total amount received for those costs was used by the Department of Wildlife.

3. On or before January 1 of each even-numbered year, submit the report required pursuant to subsection 2 to the Legislative Commission. On or before January 1 of each odd-numbered year, the ~~{Office of Energy}~~ Department of Wildlife shall submit the report required pursuant to subsection 2 to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Sec. 9. 1. The Energy Planning and Conservation Fund is hereby created in the State Treasury as a special revenue fund.

2. ~~{All money collected by the Office of Energy pursuant to subsection 3 of section 7 of this act must be deposited in the State Treasury for credit to the Fund.}~~ The Director of the {Office of Energy} Department of Wildlife may apply for and accept any gift, donation, bequest, grant or other source of money for use by the Fund. Any money so received must be deposited in the State Treasury for credit to the Fund.



3. *The Fund is a continuing fund without reversion. The money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.*

4. *The Director of the ~~{Office of Energy}~~ Department of Wildlife shall administer the Fund. The money in the Fund must be ~~{provided to}~~ used in accordance with the State Wildlife Action Plan and used by the Department of Wildlife; ~~{and used}~~;*

(a) *To conduct surveys of wildlife;*  
 (b) *To map locations of wildlife and wildlife habitat in this State;*  
 (c) *To pay for conservation projects for wildlife and its habitat;*  
 (d) *To ~~{provide staff to assist the Director of the Department of Wildlife in carrying out the provisions of paragraphs (a), (b) and (c)}~~ match any federal money for a project or program for the conservation of any species of wildlife which is of critical concern; and*

(e) *To coordinate carrying out the provisions of ~~{paragraphs (a), (b) and (c)}~~ this subsection in cooperation with the ~~{State Department of Conservation and Natural Resources}~~ Office of Energy.*

5. *The ~~{Director of the Office of Energy}~~ Department of Wildlife shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation, ~~{~~*

~~{(a) The}~~ *, the criteria for projects for which the Department of Wildlife may use money from the Fund. ~~{~~ and*

~~{(b) Procedures to distribute money from the Fund.}}~~

6. *As used in this section, "State Wildlife Action Plan" means a statewide plan prepared by the Department of Wildlife and approved by the United States Fish and Wildlife Service which sets forth provisions for the conservation of wildlife and wildlife habitat, including, without limitation, provisions for assisting in the prevention of any species of wildlife from becoming threatened or endangered.*

Sec. 9.5. 1. The Fund for the Recovery of Costs is hereby created in the State Treasury as a special revenue fund.

2. All money collected by the Department of Wildlife in accordance with regulations adopted pursuant to section 7 of this act must be deposited in the State Treasury for credit to the Fund.

3. The Fund is a continuing fund without reversion. The money in the Fund must be invested as the money in other state funds is invested.

4. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

5. The Director of the Department of Wildlife may apply for and accept any gift, donation, bequest, grant or other source of money for use by the Fund. Any money so received must be deposited in the State Treasury for credit to the Fund. If the Director of the Department of Wildlife receives any matching federal money which is credited to the Fund pursuant to this subsection, the amount of money credited may be transferred to the Energy Planning and Conservation Fund created by section 9 of this act.

6. The Director of the Department of Wildlife shall administer the Fund. The money in the Fund must be used by the Department of Wildlife solely:

(a) To provide to the Federal Government, the Public Utilities Commission of Nevada or any person any information relating to wildlife or wildlife habitat based on the location of an energy development project;  
or

(b) To match any federal money for a project or program for the conservation of any species of wildlife.

**Sec. 10.** NRS 701.020 is hereby amended to read as follows:

701.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 701.025 to 701.090, inclusive, **and section 5 of this act** have the meanings ascribed to them in those sections.

**Sec. 11.** NRS 701.180 is hereby amended to read as follows:

701.180 The Director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources, including, without limitation:

(a) Information relating to the Solar Energy Systems Incentive Program created pursuant to NRS 701B.240 including, without limitation, information relating to:

(1) The development of distributed generation systems in this State pursuant to participation in the Solar Energy Systems Incentive Program;

(2) The use of carbon-based energy in residential and commercial applications due to participation in the Program; and

(3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the Program; and

(b) Information relating to any money distributed pursuant to NRS 702.270.

2. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

3. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

4. Solicit and serve as the point of contact for grants and other money from the Federal Government, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy, and other sources to cooperate with the Commissioner and the Authority:

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Authority, the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. If requested to make a determination pursuant to NRS 111.239 or 278.0208, make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, the Director may request the information from the person making the request for a determination. Within 15 days after receiving the additional information, the Director shall make a determination on the request.

7. ~~Adopt any regulations necessary to carry out the provisions of sections 6 to 9, inclusive, of this act and shall coordinate~~ Cooperate with the Department of Wildlife ~~to carry~~ in carrying out ~~those~~ the provisions of sections 6 to 9.5, inclusive, of this act.

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

**Sec. 12.** The ~~Office of Energy~~ **Department of Wildlife** shall, before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

**Sec. 13.** This act becomes effective:

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

2. On October 1, 2011, for all other purposes.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Assembly Bill No. 449.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 643.

**; AIZLEY, ANDERSON, ATKINSON, BENITEZ-THOMPSON, BOBZIEN, BROOKS, BUSTAMANTE ADAMS, CARLTON, CARRILLO, DALY, DIAZ, DONDERO LOOP, ELLISON, FLORES, FRIERSON, GOEDHART, GRADY, HAMBRICK, HAMMOND, HANSEN, HARDY, HICKEY, HOGAN, HORNE, KIRNER, KITE, LIVERMORE, MASTROLUCA, MUNFORD, NEAL, OHRENSCHALL, PIERCE, SEGERBLOM, SHERWOOD, STEWART AND WOODBURY**

AN ACT relating to economic development; creating an Advisory Council on Economic Development; prescribing the duties of the Advisory Council; creating the Board of Economic Development; prescribing the duties and powers of the Board; creating the Office of Economic Development; prescribing the duties and powers of the Office and the Executive Director of the Office; establishing a fund to provide grants **and loans** to ~~local governments~~ **regional development agencies** for the purpose of economic development; establishing a fund to provide financial assistance to ~~research~~ **certain** institutions within the Nevada System of Higher Education for the development and commercialization of new technologies; amending provisions relating to the Commission on Economic Development, the Governor's Workforce Investment Board and the Secretary of State's business portal; transferring the duties and powers of the Commission on Economic Development to the ~~Board~~ **Office** of Economic Development; **revising the provisions governing certain partial abatements from taxation and the issuance of certain revenue bonds;** revising **and**

repealing various provisions relating to economic development; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~{Sections 1 15, 24 45 and 47 78}~~ **The provisions** of this bill establish a structure for the economic development programs of this State. **Section 8** creates an Advisory Council on Economic Development and prescribes its duties. **Section 10** creates the ~~{permanent}~~ Board of Economic Development, consisting of the Governor or his or her designee, the Lieutenant Governor or his or her designee, the Secretary of State or his or her designee, ~~{and eight}~~ **the Chancellor of the Nevada System of Higher Education or his or her designee and seven** persons appointed by the Governor, the Speaker of the Assembly, the Majority Leader of the Senate, ~~{and}~~ the Minority Leaders of the Assembly and Senate ~~{,}~~ **and the Department of Employment, Training and Rehabilitation.** Sections 12 and 13 create the Office of Economic Development **within the Office of the Governor** and the position of Executive Director ~~{,}~~ **of the Office,** who must be appointed by the Governor from a list of three persons recommended by the Board. **Section 11** prescribes the duties of the Board. ~~Sections {12-}~~ 14 **and 15** prescribe the duties of the Office and its Executive Director, which include, without limitation ~~{, (1) developing an economic development strategy for this State; (2) designating a regional organization for economic development for each of the northern, southern and rural regions of this State, which is eligible to receive economic development grants provided by local governments from money received from the Catalyst Fund created by section 16 of this bill; and (2) coordinating and overseeing economic development programs in this State to ensure that such programs are consistent with the economic development strategy. Upon the hiring of the Executive Director of the Office of Economic Development, sections 24 45 and 47 78}~~ **, the development of a State Plan for Economic Development and the designation of regional development agencies for the regions of this State. Section 86 repeals the provisions authorizing the establishment of regional development districts by the Governor. On and after July 1, 2012, sections 82 and 83 authorize the Office and its Executive Director to coordinate, oversee and reorganize the programs for economic development in this State consistently with the State Plan for Economic Development. On July 1, 2012, sections 1.5, 24-29, 30, 31, 31.7-36, 43-45, 47-51, 54-69, 71 and 79-80 transfer {all} the existing powers and duties of the Commission on Economic Development to the {Board} Office of Economic Development and require the coordination of certain activities {of the Governor's Workforce Investment Board and the Secretary of State's business portal} of various public entities with the activities of the Office. {of Economic Development and the Board.}** **In addition, sections 49-51**

require the recipients of certain partial tax abatements approved by the Office to repay the abated amounts if the recipients cease to meet the eligibility requirements for the abatements.

Sections 52.3-53.7 of this bill require the Director of the Department of Business and Industry to obtain the approval of the Office of Economic Development before the Director issues certain revenue bonds for industrial development.

Section 70 of this bill transfers the authority to grant partial abatements of property taxes for certain energy-efficient buildings from the Director of the Office of Energy to the Office of Economic Development and requires the recipients of those abatements to repay the abated amounts if the recipients cease to meet the eligibility requirements for the abatements.

Sections 72-78 of this bill transfer the authority to grant partial tax abatements for certain renewable energy facilities from the Nevada Energy Commissioner to the Office of Economic Development and require the recipients of those abatements to repay the abated amounts if the recipients cease to meet the eligibility requirements for the abatements.

Sections 9, 16, 17, 17.5 and 46 of this bill create and provide for the administration of the Catalyst Fund. Under section 46, during the 2011-2012 Fiscal Year, \$10,000,000 must be transferred to the Catalyst Fund from the Abandoned Property Trust Account in the State General Fund. This money does not revert and may be supplemented by gifts, grants, donations, bequests or other sources of money. ~~Before the Executive Director of the Office of Economic Development is hired, section 17~~ **Section 9** authorizes ~~(1)~~ **(1)** the Commission on Economic Development to make, after considering the advice and recommendations of the Advisory Council ~~for~~ **on** Economic Development, grants **or loans** of money from the Catalyst Fund to ~~local governmental entities; and (2) local governmental entities to use this money to make grants to the local or regional organizations for economic development.~~ **regional development agencies.** The grants **or loans** must be used to make grants or loans to, or investments in, businesses seeking to create or expand in this State or relocate to this State. ~~Under~~ **On July 1, 2012, section 17** ~~is after~~ **transfers the authority to make those grants or loans to** the Executive Director of the Office of Economic Development. ~~He~~ **is** hired, the Executive Director is authorized to make grants of money from the Catalyst Fund and must establish the procedures for obtaining these grants reporting requirements concerning the use of grants from the Catalyst Fund.

Sections 18-22 of this bill establish a program for the development and commercialization of research and technology at the University of Nevada, Las Vegas, the University of Nevada, Reno, and the Desert Research

Institute. **Section 19** creates the Knowledge Fund ~~and requires the University of Nevada, Las Vegas, the University of Nevada, Reno, and the Desert Research Institute to transfer a certain amount of money each year, beginning with the 2011 2012 Fiscal Year, from each institution's legislative appropriation to the Knowledge Fund.~~ **Section 22** requires the Executive Director of the Office **of Economic Development** to allocate money in the Knowledge Fund to be used by the Universities and the Desert Research Institute to provide funding for: (1) the recruitment ~~and~~ hiring and retention of faculty and teams to conduct research in science and technology; (2) research laboratories and related equipment; ~~and~~ (3) the construction of research clinics, institutes and facilities and related buildings in this State ~~;~~ **and (4) matching funds for federal and private grants that further economic development.** Under **section 21**, the Executive Director must use money in the Knowledge Fund to establish a technology outreach program at strategic locations throughout this State and ensure that the program assists with the development of commercial applications of research. Section 20 requires the Executive Director to establish economic development goals and objectives for these programs and to monitor the programs and the use of money from the Knowledge Fund. **Section 19.3 authorizes the Executive Director, the University of Nevada, Las Vegas, the University of Nevada, Reno and the Desert Research Institute to enter into agreements for the allocation of commercialization revenue generated from programs receiving money from the Knowledge Fund.**

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

**Section 1. NRS 223.085 is hereby amended to read as follows:**

223.085 1. The Governor may, within the limits of available money, employ such persons as he or she deems necessary to provide an appropriate staff for the Office of the Governor, including, without limitation, the Office of Economic Development, the Office of Science, Innovation and Technology and the Governor's mansion. Any such employees are not in the classified or unclassified service of the State and , except as otherwise provided in sections 12 and 13 of this act, serve at the pleasure of the Governor.

2. The Governor shall:

(a) Determine the salaries and benefits of the persons employed pursuant to subsection 1, within limits of money available for that purpose; and

(b) Adopt such rules and policies as he or she deems appropriate to establish the duties and employment rights of the persons employed pursuant to subsection 1.

~~[Section 1.]~~ Sec. 1.5. NRS 223.610 is hereby amended to read as follows:

223.610 The Director of the Office of Science, Innovation and Technology shall:

1. Advise the Governor *and the Executive Director of the Office of Economic Development* on matters relating to science, innovation and technology.

2. Work in coordination with the ~~[Commission on]~~ *Office of* Economic Development to establish criteria and goals for economic development and diversification in this State in the areas of science, innovation and technology.

3. As directed by the Governor ~~and~~ *and the Executive Director of the Office of Economic Development,* identify, recommend and carry out policies related to science, innovation and technology.

4. Report periodically to the ~~[Chair and]~~ Executive Director of the ~~[Commission on]~~ *Office of* Economic Development concerning the administration of the policies and programs of the Office of Science, Innovation and Technology.

5. Develop and coordinate efforts to attract biotechnological companies to this State.

6. Establish and maintain a clearinghouse of information regarding biotechnological business in this State.

7. In carrying out his or her duties pursuant to this section, consult with the Executive Director of the Office of Economic Development and cooperate with the Executive Director in implementing the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act.

Sec. 2. Chapter 231 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 22, inclusive, of this act.

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to ~~7.1~~ 7.5, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“Board” means the Board of Economic Development created by section 10 of this act.*

Sec. 4.5. *“Development resource” means any funding or other resource for economic development, including, without limitation, a structured lease of real property. The term does not include any grant, loan or allocation of money from the Catalyst Fund created by section 16 of this act or the Knowledge Fund created by section 19 of this act.*

Sec. 5. *“Executive Director” means the Executive Director of the Office.*



Sec. 6. *“Office” means the Office of Economic Development created by section 12 of this act.*

Sec. 7. *“Organization for economic development” means an organization which promotes, aids or encourages economic development in this State or a locality or region of this State. ~~[The term includes, without limitation, a regional development district created pursuant to NRS 277.300 to 277.390, inclusive.]~~*

Sec. 7.5. *“Regional development agency” means an organization for economic development which is:*

*1. A local governmental entity or composed solely of two or more local governmental entities; and*

*2. Designated by the Executive Director as a regional development agency pursuant to subsection 4 of section 14 of this act.*

Sec. 8. 1. *The Advisory Council on Economic Development is hereby created. The Advisory Council consists of:*

- (a) The Governor;*
- (b) The Lieutenant Governor;*
- (c) The Speaker of the Assembly;*
- (d) The Majority Leader of the Senate;*
- (e) The Minority Leader of the Assembly;*
- (f) The Minority Leader of the Senate; and*
- (g) The Secretary of State.*

*2. The Lieutenant Governor shall serve as the Chair of the Advisory Council.*

*3. The members of the Advisory Council shall serve without compensation.*

*~~3.1~~ except that, to the extent approved by the Executive Director, the members are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the official business of the Advisory Council.*

*4. The members of the Advisory Council ~~[may:]~~ shall:*

*(a) Meet at least once each quarter to discuss the efforts made by each member to further the economic development of this State and the results and expected results of those efforts.*

*(b) Market this State to further the economic development of this State and, after the Executive Director has developed the State Plan for Economic Development pursuant to subsection 2 of section 14 of this act, conduct such marketing in accordance with the State Plan for Economic Development. The efforts made pursuant to this paragraph may include, without limitation, attending industry conferences, publicizing the economic development programs of this State and meeting with the leaders*

*of businesses who express interest in expanding or relocating in this State.*  
~~and~~

~~(b) At the request of the Board, provide~~

*(c) Provide advice to the Board concerning the economic development of this State.*

Sec. 9. 1. ~~The~~ In consultation with the Advisory Council on Economic Development created by section 8 of this act, the Commission on Economic Development shall:

*(a) Evaluate the performance of local and regional organizations for economic development in this State and, based on the evaluation, make recommendations concerning the funding ~~for or defunding~~ of or withdrawal of funding from specific local and regional organizations for economic development.*

*(b) Establish procedures for applying ~~for an economic development grant from~~ to the Commission on Economic Development ~~and~~ for a development resource or a grant or loan of money from the Catalyst Fund created by section 16 of this act.* ~~The procedures must:~~

*(1) Include, without limitation, a requirement that applications for development resources, grants or loans must set forth:*

*(I) The proposed use of the development resource, grant or loan;*

*(II) The plans, projects and programs for which the development resource, grant or loan will be used;*

*(III) The expected benefits of the development resource, grant or loan; and*

*(IV) A statement of the short-term and long-term impacts of the use of the development resource, grant or loan; and*

*(2) Allow an applicant to revise his or her application upon the recommendation of the Commission on Economic Development.*

*(c) Develop the criteria for awarding grants and loans from the Catalyst Fund created by section 16 of this act.*

*(d) Develop criteria for evaluating the performance of local and regional organizations for economic development.* ~~and~~

*(e) Establish ~~the~~ requirements for reports from ~~local governmental entities concerning the use of~~ the recipients of development resources and grants or loans of money from the Catalyst Fund ~~concerning the use thereof~~. The requirements must include, without limitation, a requirement that the recipient of a grant or loan of money include in such a report:*

*(1) A description of each activity undertaken with money from the grant or loan and the amount of money used for each such activity;*

*(2) The return on the money provided by the grant or loan;*

*(3) A statement of the benefit to the public from the grant or loan; and*

(4) Such documentation as the Commission deems appropriate to support the information provided in the report.

2. Upon receipt of an application for a development resource or a grant or loan of money from the Catalyst Fund created by section 16 of this act, the Commission on Economic Development may provide development resources or make grants or loans of money from the Catalyst Fund to ~~local governmental entities that apply either singly or jointly~~ regional development agencies that apply for such ~~grants. Local governmental entities that receive a grant of money from the Catalyst Fund shall use the money to make grants of money to a local or regional organization for economic development approved by the Commission.~~ development resources, grants or loans. The development resource, grant or loan must be used to provide development resources, grants or loans to, or to make investments in, businesses seeking to create or expand in this State or relocate to this State. ~~Upon awarding a grant to a local governmental entity~~ Before providing a development resource, grant or loan to a regional development agency pursuant to this subsection, the Commission shall enter into an agreement with the ~~local governmental entity~~ regional development agency which sets forth terms and conditions for the development resource, grant ~~or~~ or loan, including, without limitation, ~~the return of the grant if the grant~~ a requirement that the regional development agency must enter into a separate agreement with each business to which the regional development agency provides any portion of the development resource, grant or loan which requires the business to return the development resource, grant or loan to the Commission if it is not used in accordance with the agreement ~~or~~ between the regional development agency and the Commission.

3. The Advisory Council on Economic Development ~~may~~ shall provide advice and recommendations to assist the Commission on Economic Development in carrying out the duties prescribed by this section. The Commission must consider the advice and recommendations of the Advisory Council but is not required to follow the advice and recommendations of the Advisory Council, and any such recommendations are advisory in nature.

Sec. 10. 1. There is hereby created the Board of Economic Development, consisting of ~~the~~ :

(a) The following voting members:

~~[(a)]~~ (1) The Governor or his or her designee;

~~[(b)]~~ (2) The Lieutenant Governor or his or her designee;

~~[(c)]~~ (3) The Secretary of State or his or her designee; and

~~[(d) Eight]~~

*(4) Six members who must be selected from the private sector and appointed as follows:*

~~[(1)]~~ *(I) Three members appointed by the Governor;*

~~[(2)]~~ *Two members;*

*(II) One member appointed by the Speaker of the Assembly;*

~~[(3)]~~ *Two members;*

*(III) One member appointed by the Majority Leader of the Senate;*  
and

~~[(4)]~~ *(IV) One member appointed ~~as agreed~~ by the Minority ~~Leaders~~ Leader of the Assembly ~~and~~ or the Minority Leader of the Senate. The Minority Leader of the Assembly shall appoint the member for the initial term, the Minority Leader of the Senate shall appoint the member for the next succeeding term, and thereafter, the authority to appoint the member for each subsequent term alternates between the Minority Leader of the Assembly and the Minority Leader of the Senate.*

*(b) The following nonvoting members:*

*(1) The Chancellor of the Nevada System of Higher Education or his or her designee; and*

*(2) One member appointed by the Department of Employment, Training and Rehabilitation from the membership of the Governor's Workforce Investment Board.*

*2. In appointing the members of the Board described in subsection 1, the appointing authorities shall coordinate the appointments when practicable so that the members of the Board represent the diversity of this State, including without limitation, different strategically important industries, different geographic regions of this State and different professions.*

*3. ~~The members of the Board shall elect a~~ Governor or his or her designee shall serve as the Chair of the Board.*

*4. Except as otherwise provided in this subsection, the members of the Board appointed pursuant to subparagraph (4) of paragraph (a) of subsection 1 and subparagraph (2) of paragraph (b) of subsection 1 are appointed for terms of 4 years. The initial members of the Board shall by lot select ~~[(five)]~~ three of the initial members of the Board appointed pursuant to subparagraph (4) of paragraph (a) of subsection 1 to serve an initial term of 2 years.*

*5. Vacancies in the appointed positions on the Board must be filled by the appointing authority for the unexpired term.*

*6. The Executive Director shall serve as the nonvoting Secretary of the Board.*

*7. A majority of the Board constitutes a quorum, and a majority of the Board is required to exercise any power conferred on the Board.*

8. *The Board shall meet at least once each quarter but may meet more often at the call of the Chair or a majority of the members of the Board.*

9. *The members of the Board serve without compensation but are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the official business of the Board.*

Sec. 11. *The Board shall:*

1. *Review and evaluate all programs of economic development in this State and make recommendations to the Legislature for legislation to improve the effectiveness of those programs in implementing the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act.*

2. *Recommend to the Executive Director a State Plan for Economic Development ~~for~~ and make recommendations to the Executive Director for carrying out the State Plan for Economic Development.*

3. *Recommend to the Executive Director the criteria for the designation of regional ~~organizations for economic development~~ development agencies.*

4. *Make recommendations to the Executive Director for the designation for the southern region of this State, the northern region of this State and the rural region of this State, one or more regional ~~organization for economic~~ development agencies for each region. ~~which is eligible to receive grants from local governmental entities pursuant to subsection 1 of section 17 of this act, and from the Commission on Economic Development pursuant to subsection 4 of NRS 231.067. Upon the recommendation of the Executive Director, the Board may remove the designation of a regional organization for economic development and designate a different regional organization for that region.~~*

5. *Provide advice and recommendations to the Executive Director concerning:*

(a) *The procedures to be followed by ~~local governmental entities~~ any entity seeking to obtain ~~at~~ any development resource, allocation, grant or loan from the ~~Catalyst Fund created by section 16 of this act.~~ Office;*

(b) *The criteria to be used by the Office in providing development resources and making ~~grants to local governmental entities pursuant to section 16 of this act.~~ allocations, grants and loans; ~~and~~*

(c) *The requirements for reports from ~~local governmental entities~~ the recipients of development resources, allocations, grants and loans from the Office concerning the use ~~of grants of money from the Catalyst Fund.~~*

6. ~~Within the limits of legislative appropriations, determine the salaries and benefits of the Executive Director and the employees of the Office; thereof; and~~

(d) Any other activities of the Office.

6. Review each proposal by the Executive Director to grant more than \$250,000 or loan more than \$500,000 to any entity and, as the Board determines to be in the best interests of the State, approve or disapprove the proposed grant or loan. Notwithstanding any other statutory provision to the contrary, the Executive Director shall not grant more than \$250,000 or loan more than \$500,000 to any entity unless the grant or loan is approved by the Board.

Sec. 12. 1. There is hereby created within the Office of the Governor the Office of Economic Development. ~~It, consisting of:~~

~~(a) A Division of Economic Development; and~~

~~(b) A Division of motion Pictures.~~

2. The Governor shall propose a budget for the Office.

3. Employees of the Office are not in the classified or unclassified service of this State ~~and~~ and serve at the pleasure of the Executive Director.

Sec. 13. The Executive Director:

1. Must be appointed by the Governor from a list of three persons recommended by the Board.

2. Is not in the classified or unclassified service of this State.

3. ~~May~~ Serves at the pleasure of the Board, except that he or she may be removed by the Board only if the Board finds that his or her performance is unsatisfactory.

4. Shall devote his or her entire time to the duties of his or her office and shall not engage in any other gainful employment or occupation.

Sec. 14. ~~The~~ After considering any pertinent advice and recommendations of the Board, the Executive Director:

1. Shall direct and supervise the administrative and technical activities of the Office.

2. Shall develop and may periodically revise a State Plan for Economic Development, which must include a statement of:

(a) New industries which have the potential to be developed in this State;

(b) The strengths and weaknesses of this State for business incubation;

(c) The competitive advantages and weaknesses of this State;

(d) The manner in which this State can leverage its competitive advantages and address its competitive weaknesses;

(e) A strategy to encourage the creation and expansion of businesses in this State and the relocation of businesses to this State; and

(f) Potential partners for the implementation of the strategy, including, without limitation, the Federal Government, local governments, local and regional organizations for economic development, chambers of commerce, and private businesses ~~and investors.~~, investors and nonprofit entities.

3. ~~{Develop}~~ Shall develop criteria for the designation of regional {organizations for economic} development agencies pursuant to subsection 4.

4. ~~{Designate for}~~ Shall, in consultation with local governmental entities in the southern region of this State, the northern region of this State and the rural region of this State, {one regional organization for economic development} designate as many regional development agencies for each region {which is eligible to receive grants from local governmental entities pursuant to subsection 1 of section 17 of this act} as the Executive Director determines to be appropriate to implement the State Plan for Economic Development. The Executive Director may, if he or she determines that such action would aid in the implementation of the State Plan for Economic Development, remove the designation of {a regional organization for economic development and designate a different regional organization for that region. A county, city, town or other political subdivision shall not provide grants or any financial assistance to a local or regional organization for economic development which has been designated by the Executive Director pursuant to this subsection.

5. ~~Within the limits of legislative appropriations, may appoint such professional, technical, clerical and operational employees as the execution of his or her duties and the operation of the Office may require.~~

6. ~~In a manner consistent with the laws of this State, may reorganize the programs of economic development in this State to further the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2. If, in the opinion of the Executive Director, changes to the laws of this State are necessary to implement the economic development strategy for this State, the Executive Director must recommend the changes to the Governor and the Legislature.} any regional development agency previously designated pursuant to this section.~~

5. May apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of sections 12 to 15, inclusive, and 17 to 22, inclusive, of this act.

6. May adopt such regulations as may be necessary to carry out the provisions of sections 12 to 15, inclusive, and 17 to 22, inclusive, of this act.

Sec. 15. Under the direction of the Executive Director, the Office shall:

1. Provide administrative and technical support to the Board.

2. Support the efforts of the Board, the regional ~~{organizations for economic}~~ development agencies designated by the Executive Director pursuant to subsection 4 of section 14 of this act and the private sector to encourage the creation and expansion of businesses in Nevada and the relocation of businesses to Nevada.

3. ~~{Coordinate and oversee all economic development programs in this State to ensure that such programs are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act, including, without limitation:~~

~~(a) Coordinating the economic development activities of agencies of this State, local governments in this State and local and regional organizations for economic development to avoid duplication of effort or conflicting efforts;~~

~~(b) Working with local, state and federal authorities to streamline the process for obtaining abatements, financial incentives, grants, loans and all necessary permits and licenses for the creation or expansion of business in Nevada or the relocation of businesses to Nevada; and~~

~~(c) Reviewing, analyzing and making recommendations for the approval or disapproval of applications for abatements, financial incentives and grants of money provided by the Commission on Economic Development pursuant to NRS 231.020 to 231.156, inclusive.}~~ Ensure that each fiscal year the University of Nevada, Las Vegas, the University of Nevada, Reno, and the Desert Research Institute each receive an equitable share, as practicable, of the money available from the Office for those entities for that fiscal year in accordance with the opportunities for economic development that are available to each of those entities.

Sec. 16. 1. *The Catalyst Fund is hereby created as a special revenue fund in the State Treasury.*

2. *The Catalyst Fund is a continuing fund without reversion. The interest and income earned on money in the Catalyst Fund, after deducting any applicable charges, must be credited to the Catalyst Fund.*

3. ~~{The Executive Director}~~ All payments of principal and interest on any loan made with money from the Catalyst Fund must be deposited in the State Treasury for credit to the Fund.

4. The Commission on Economic Development shall administer the Catalyst Fund and may apply for and accept any gift, grant, donation, bequest or other source of money ~~{Any money so received must be deposited}~~ for deposit in the Catalyst Fund. ~~{for the Knowledge Fund created pursuant to section 19 of this act.}~~

Sec. 17. 1. *The Executive Director shall* ~~{administer the Catalyst Fund and, after considering the recommendations of the Board, may make grants of money from the Catalyst Fund to local governmental entities in this State that apply for a grant either singly or jointly with other local governments. A local governmental entity which receives a grant of money from the Catalyst Fund shall use the money to make grants of money to the regional organization for economic development designated for that local government by the Executive Director pursuant to subsection 4 of section 14~~



~~of this act. The grant must be used to provide grants or loans to or to make investments in, businesses seeking to create or expand in this State or relocate to this State.}~~, after considering the advice and recommendations of the Board, establish procedures for applying to the Office for a development resource or a grant or loan of money from the Catalyst Fund created by section 16 of this act. The procedures must:

(a) Include, without limitation, a requirement that applications for development resources, grants or loans must set forth:

(1) The proposed use of the development resource, grant or loan;

(2) The plans, projects and programs for which the development resource, grant or loan will be used;

(3) The expected benefits of the development resource, grant or loan; and

(4) A statement of the short-term and long-term impacts of the use of the development resource, grant or loan; and

(b) Allow an applicant to revise his or her application upon the recommendation of the Executive Director.

2. In accordance with the procedures established pursuant to subsection 1, any regional development agency may apply for a development resource or a grant or loan of money from the Catalyst Fund. Upon receipt of such an application {for a grant from the Catalyst Fund pursuant to subsection 1, the Commission on Economic Development shall provide a copy of the application to the Executive Director. The}, the Executive Director {and the Board} shall review the application and {make a recommendation to the Commission on Economic Development concerning} determine whether the approval of the application would promote the economic development of this State and aid the implementation of the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act.

~~{2.}~~ If the Executive Director determines that approving the application will promote the economic development of this State and aid the implementation of the State Plan for Economic Development, the Executive Director may approve the application and provide a development resource or make a grant or loan of money from the Catalyst Fund to the applicant.

3. Except as otherwise provided in this subsection or another specific statute, each development resource or grant or loan of money from the Catalyst Fund which the Office provides to a regional development agency must be used to provide development resources, grants or loans to or to make investments in, businesses seeking to create or expand in this State or relocate to this State. The Executive Director may provide a development resource or a grant or loan of money to a regional development agency to

be used for administrative or operating purposes, but no money from the Catalyst Fund may be used by any organization for economic development for such purposes.

4. After considering the advice and recommendations of the Board, the Executive Director shall:

~~(a) Establish the procedures to be followed by local governmental entities to obtain a grant from the Catalyst Fund and the criteria to be used in making grants to local governmental entities pursuant to this section.~~

~~(b) Enter~~ Require each regional development agency to which the Executive Director proposes to provide a development resource or a grant or loan of money from the Catalyst Fund to enter into an agreement with ~~local governmental entities receiving a grant from the Catalyst Fund which~~ the Executive Director that sets forth terms and conditions of the development resource, grant ~~or~~ or loan, which must include, without limitation, a provision requiring ~~for a local governmental entity to return the grant if the grant~~ the regional development agency to enter into a separate agreement with each business to which the regional development agency provides any portion of the development resource, grant or loan which requires the business to return the development resource, grant or loan to the Office if it is not used in accordance with the agreement ~~for~~

~~(c) between the regional development agency and the Executive Director.~~

~~(b) Establish the requirements for reports from local governmental entities~~ regional development agencies concerning the use of development resources and grants and loans of money from the Catalyst Fund.

~~4. The requirements must include, without limitation, a requirement that the recipient of a grant or loan of money include in such a report:~~

(1) A description of each activity undertaken with money from the grant or loan and the amount of money used for each such activity;

(2) The return on the money provided by the grant or loan;

(3) A statement of the benefit to the public from the grant or loan; and

(4) Such documentation as the Executive Director deems appropriate to support the information provided in the report.

5. On or before November 1, 2012, and on or before November 1 of every year thereafter, the Executive Director shall submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee, if the report is received during an odd-numbered year, or to the next session of the Legislature, if the report is received during an even-numbered year. The report must include, without limitation:

~~(1)~~ (a) The amount of grants and loans awarded from the Catalyst Fund;

~~[(2)]~~ (b) The amount of all grants, gifts and donations to the Catalyst Fund from public and private sources;

~~[(3)]~~ (c) The number of businesses which have been created or expanded in this State, or which have relocated to this State, because of grants and loans from the Catalyst Fund; and

~~[(4)]~~ (d) The number of jobs which have been created or saved because of grants and loans from the Catalyst Fund.

~~§ 5—The Executive Director shall ensure that each fiscal year each regional organization for economic development designated by the Executive Director pursuant to subsection 4 of section 14 of this act receives an equitable share of the grants, as practicable, from the Catalyst Fund during that fiscal year.]~~

Sec. 17.5. After considering the advice and recommendations of the Board, the Executive Director shall establish procedures pursuant to which a regional development agency may grant to another organization for economic development any money granted by the Office to the regional development agency to be used for administrative or operating purposes. The procedures must include, without limitation, a requirement that:

1. The applications for the grants must set forth:

(a) The proposed use of the grant;

(b) The plans, projects and programs for which the grant will be used;

(c) The expected benefits of the grant; and

(d) A statement of the short-term and long-term impacts of the use of the grant.

2. The grants must:

(a) Promote the economic development of this State and aid in the implementation of the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act; and

(b) Be used by the organizations for economic development receiving the grants for administrative or operating purposes.

3. The regional development agencies making the grants and the organizations for economic development receiving the grants must submit to the Office reports concerning the use of the grants which must include, without limitation:

(a) A description of each activity undertaken with money from the grant and the amount of money used for each such activity;

(b) The return on the money provided by the grant;

(c) A statement of the benefit to the public from the grant; and

(d) Such documentation as the Executive Director deems appropriate to support the information provided in the report.

Sec. 18. As used in sections 18 to 22, inclusive, of this act, unless the context otherwise requires ~~], “research”~~ :

1. "Chancellor" means the Chancellor of the Nevada System of Higher Education or his or her designee.

2. "Research universities" means the University of Nevada, Las Vegas, and the University of Nevada, Reno.

Sec. 19. 1. The Knowledge Fund is hereby created ~~as a special revenue fund~~ in the State Treasury.

2. The Knowledge Fund is a continuing fund without reversion. The interest and income earned on money in the Knowledge Fund, after deducting any applicable charges, must be credited to the Knowledge Fund.

3. The Executive Director ~~may~~ :

(a) Shall administer the Knowledge Fund in a manner that is consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act;

(b) May apply for and accept any gift, grant, donation, bequest or other source of money ~~[Any money so received must be deposited]~~ for deposit in the Knowledge Fund ~~for the Catalyst Fund.~~

~~4~~ ; and

(c) Subject to any restrictions imposed by ~~the~~ such a grant, gift, donation or appropriation, ~~the Executive Director~~ may allocate money in the Knowledge Fund among the research universities, the Desert Research Institute, the technology outreach program established pursuant to section 21 of this act and the technology transfer ~~officers~~ offices of the research universities and the Desert Research Institute to support commercialization and technology transfer to the private sector.

~~5. On or before August 1 of each year, the research universities shall each transfer to the Knowledge Fund \$3,000,000 of the amount appropriated to the institution by the Legislature, and the Desert Research Institute shall transfer to the Knowledge Fund \$2,000,000 of the amount appropriated to the institution by the Legislature.~~

Sec. 19.3. 1. The Executive Director may enter into agreements, when the Executive Director deems such an agreement to be appropriate, with the research universities and the Desert Research Institute for the allocation of commercialization revenue between the Office, the research universities and the Desert Research Institute. Any commercialization revenue received by the Office pursuant to such an agreement must be deposited in the Knowledge Fund created by section 19 of this act.

2. In consideration of the money and services provided or agreed to be provided by the Office, the research universities and the Desert Research Institute shall agree to allocate commercialization revenue in accordance with any agreement entered into pursuant to subsection 1.

3. As used in this section, “commercialization revenue” means dividends, realized capital gains, license fees, royalty fees and other revenues received by a research university or the Desert Research Institute as a result of commercial applications developed as a result of the programs established pursuant to sections 18 to 22, inclusive, of this act, less:

- (a) The portion of those revenues allocated to the inventor; and
- (b) Expenditures incurred by the research university or the Desert Research Institute to legally protect the intellectual property.

Sec. 19.7. 1. After considering the advice and recommendations of the Board, the Executive Director shall establish procedures for applying for an allocation of money from the Knowledge Fund created by section 19 of this act. The procedures must include, without limitation, a requirement that applications for allocations of money set forth:

- (a) The proposed use of the money;
- (b) The plans, projects and programs for which the money will be used;
- (c) The expected benefits of the money; and
- (d) A statement of the short-term and long-term impacts of the use of the money.

2. In accordance with the procedures established pursuant to subsection 1, a research university or the Desert Research Institute may apply for an allocation of money from the Knowledge Fund. Upon receipt of an application for an allocation from the Knowledge Fund, the Executive Director shall review the application and determine whether the approval of the application would promote the economic development of this State and aid the implementation of the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act. If the Executive Director determines that approving the application will promote the economic development of this State and aid the implementation of the State Plan for Economic Development, the Executive Director may approve the application and make an allocation of money from the Knowledge Fund to the applicant.

3. If a research university or the Desert Research Institute receives an allocation of money from the Knowledge Fund, the money must be used for the purposes set forth in section 22 of this act.

Sec. 20. 1. ~~[(The)]~~ In consultation with the Board and the Chancellor, the Executive Director shall:

- (a) Establish ~~[of the research universities and the Desert Research Institute]~~, for the programs established pursuant to sections 18 to 22, inclusive, of this act, economic development goals which are consistent with the State Plan for Economic Development developed by the Executive

Director pursuant to subsection 2 of section 14 of this act and the strategic plans of the research universities and the Desert Research Institute.

(b) In cooperation with the administration of the research universities and the Desert Research Institute, expand science and technology research at the research universities and the Desert Research Institute. ~~and~~

(c) Enhance technology transfer and commercialization of research and technologies developed at the research universities and the Desert Research Institute to create high-quality jobs and new industries in this State. ~~and~~

(d) Establish economic development objectives for the programs established pursuant to sections 18 to 22, inclusive, of this act. ~~and~~

(e) Verify that the programs established pursuant to sections 18 to 22, inclusive, of this act are being enhanced by research grants and that such programs are meeting the Board's economic development objectives. ~~and~~

(f) Monitor all research plans that are part of the programs established pursuant to sections 18 to 22 inclusive, of this act at the research universities and the Desert Research Institute to determine that allocations from the Knowledge Fund created by section 19 of this act are being spent in accordance with legislative intent and to maximize the benefit and return to this State. ~~and~~

(g) Develop methods and incentives to encourage investment in and contributions to the programs established pursuant to sections 18 to 22, inclusive, of this act from the private sector. ~~and~~

(h) Establish requirements for periodic reports from the research universities and the Desert Research Institute concerning the use of allocations from the Knowledge Fund pursuant to section 22 of this act. The requirements must include, without limitation, a requirement that the recipient of the allocation include in such a report:

(1) A description of each activity undertaken with money from the allocation and the amount of money used for each such activity; and

(2) Such documentation as the Executive Director deems appropriate to support the information provided in the report.

(i) On or before November 1, 2012, and on or before November 1 of every year thereafter, submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee, if the report is received during an odd-numbered year, or to the next session of the Legislature, if the report is received during an even-numbered year. The report must include, without limitation:

(1) The number of research teams and faculty recruited, ~~and~~ hired and retained pursuant to section 22 of this act and the amount of funding provided to those research teams;

(2) *A description of the research being conducted by the research teams and faculty for which the Executive Director has provided funding pursuant to section 22 of this act;*

(3) *The number of patents which have been filed as a result of the programs established pursuant to sections 18 to 22, inclusive, of this act;*

(4) *The amount of research grants awarded to the research teams and faculty recruited, ~~and~~ hired and retained pursuant to section 22 of this act;*

(5) *The amount of all grants, gifts and donations to the Knowledge Fund from public and private sources;*

(6) *The number of businesses which have been created or expanded in this State, or relocated to this State, because of the programs established pursuant to sections 18 to 22, inclusive, of this act; and*

(7) *The number of jobs which have been created or saved as a result of the activities of the Office.*

2. *The Executive Director may enter into any agreements necessary to obtain private equity investment in the programs established pursuant to sections 18 to 22, inclusive, of this act.*

Sec. 21. 1. *The Executive Director shall use money in the Knowledge Fund created by section 19 of this act to establish a technology outreach program at locations distributed strategically throughout this State.*

2. *The Executive Director shall ensure that the technology outreach program acts as a resource to:*

(a) *Broker ideas, new technologies and services to entrepreneurs and businesses throughout a defined service area;*

(b) *Engage local entrepreneurs and faculty and staff at state colleges ~~and~~ and community colleges ~~and the Desert Research Institute~~ by connecting them to the research universities ~~and~~ and the Desert Research Institute;*

(c) *Assist professors and researchers in finding entrepreneurs and investors for the commercialization of their ideas and technologies;*

(d) *Connect market ideas and technologies in new or existing businesses or industries or in state colleges ~~and~~ and community colleges ~~for the Desert Research Institute~~ with the expertise of the research universities ~~and~~ and the Desert Research Institute;*

(e) *Assist businesses, the research universities, state colleges, community colleges and the Desert Research Institute in developing commercial applications for their research; and*

(f) *Disseminate and share discoveries and technologies emanating from the research universities and the Desert Research Institute to local entrepreneurs, businesses, state colleges and community colleges.*

3. *In designing and operating the technology outreach program, the Board shall work cooperatively with the technology transfer offices at the research universities and the Desert Research Institute.*

Sec. 22. ~~[Subject to any restrictions or directions established by the Legislature.]~~ *In consultation with the Board and the Chancellor, the Executive Director shall allocate money in the Knowledge Fund created by section 19 of this act to the research universities and the Desert Research Institute to provide funding for:*

1. *The recruitment, ~~and~~ hiring and retention of research teams and faculty to conduct research in science and technology which has the potential to contribute to economic development in this State;*

2. *Research laboratories and related equipment located or to be located in this State; ~~and~~*

3. *The construction of research clinics, institutes and facilities and related buildings located or to be located in this State ~~and~~ ; and*

4. *Matching funds for federal and private sector grants and contract opportunities that support economic development consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act.*

Sec. 23. NRS 231.015 is hereby amended to read as follows:

231.015 1. The Interagency Committee for Coordinating Tourism and Economic Development is hereby created. The Committee consists of the Governor, who is its Chair, the Lieutenant Governor, who is its Vice Chair, the Director of the Commission on Tourism, the Executive Director of the ~~{Commission on}~~ ***Office of*** Economic Development and such other members as the Governor may from time to time appoint. The appointed members of the Committee serve at the pleasure of the Governor.

2. The Committee shall meet at the call of the Governor.

3. The Committee shall:

(a) Identify the strengths and weaknesses in state and local governmental agencies which enhance or diminish the possibilities of tourism and economic development in this State.

(b) Foster coordination and cooperation among state and local governmental agencies, and enlist the cooperation and assistance of federal agencies, in carrying out the policies and programs of the Commission on Tourism and the ~~{Commission on}~~ ***Office of*** Economic Development.

(c) Formulate cooperative agreements between the Commission on Tourism or the ~~{Commission on}~~ ***Office of*** Economic Development, and state and other public agencies pursuant to the Interlocal Cooperation Act, so that ~~each of those commissions~~ *the Commission and Office* may receive applications from and, as appropriate, give governmental approval for



necessary permits and licenses to persons who wish to promote tourism, develop industry or produce motion pictures in this State.

4. The Governor may from time to time establish regional or local subcommittees to work on regional or local problems of economic development or the promotion of tourism.

Sec. 23.3. **NRS 231.020 is hereby amended to read as follows:**

231.020 As used in NRS 231.020 to 231.139, inclusive, unless the context otherwise requires, "motion pictures" includes feature films, movies made for broadcast ~~on television~~ **or other electronic transmission**, and programs made for broadcast ~~on television~~ **or other electronic transmission** in episodes.

Sec. 23.7. **NRS 231.050 is hereby amended to read as follows:**

231.050 1. The Commission on Economic Development may meet regularly each month or at more frequent times if it deems necessary, and may, within the limits of its budget, hold special meetings at the call of the Chair.

2. The Executive Director **of the Commission** is the Secretary of the Commission.

3. The Commission shall prescribe rules for its own management and government.

4. Four members of the Commission constitute a quorum, but a majority of the Commission is required to exercise the power conferred on the Commission.

5. The Governor may remove a member from the Commission if the member neglects his or her duty or commits malfeasance in office.

Sec. 24. NRS 231.060 is hereby amended to read as follows:

231.060 The ~~{Commission on Economic Development;}~~ **Office:**

1. Shall establish the policies and approve the programs ~~{and budgets}~~ of the ~~{Division of Economic Development and}~~ Division of Motion Pictures concerning ~~{~~

~~(a) The promotion of industrial development and diversification in this State; and~~

~~(b) The~~ **the** promotion of the production of motion pictures in this State.

2. May from time to time create special advisory committees to advise it on special problems of economic development. Members of special advisory committees ~~{, other than members of the Commission,}~~ may be paid the per diem allowance and travel expenses provided for state officers and employees, as the budget of the ~~{Commission}~~ **Office** permits.

Sec. 25. NRS 231.064 is hereby amended to read as follows:

231.064 In addition to its other duties, the ~~{Commission on Economic Development}~~ **Office** shall:

1. Investigate and study conditions affecting Nevada business, industry and commerce, and engage in technical studies, scientific investigations, statistical research and educational activities necessary or useful for the proper execution of the function of the ~~[Division of Economic Development]~~ **Office** in promoting and developing Nevada business, industry and commerce, both within and outside the State.

2. Conduct or encourage research designed to further new and more extensive uses of the natural and other resources of the State and designed to develop new products and industrial processes.

3. Serve as a center of public information for the State of Nevada by answering general inquiries concerning the resources and economic advantages of this state and by furnishing information and data on these and related subjects.

4. Prepare, and disseminate in any medium, informational material designed to promote community, economic and industrial development in Nevada.

5. Plan and develop an effective service for business information, both for the direct assistance of business and industry of the State and for the encouragement of business and industry outside the State to use economic facilities within the State, including readily accessible information on state and local taxes, local zoning regulations and environmental standards, the availability and cost of real estate, labor, energy, transportation and occupational education and related subjects.

Sec. 26. ~~[NRS 231.065 is hereby amended to read as follows:]~~

~~231.065 1. The [Commission on Economic Development] **Office** shall provide and administer grants of money to political subdivisions of the State and to [local or] regional organizations for economic development designated by the Executive Director pursuant to subsection 4 of section 14 of this act to assist projects of economic diversification in counties:~~

~~(a) Whose economies are subject to dramatic fluctuations because of their dependence on mining; and~~

~~(b) That do not qualify for funding from the Economic Development Administration of the United States Department of Commerce.~~

~~2. The [Commission] **Office** shall establish eligibility criteria for recipients and may require a recipient to provide matching funds.~~

~~3. A recipient of a grant may use the money only to assist projects of economic diversification, including, without limitation:~~

~~(a) Analysis of industrial property;~~

~~(b) Feasibility studies;~~

~~(c) Construction of industrial park infrastructure; and~~

~~(d) Purchase of publicly owned industrial property.] **(Deleted by amendment.)**~~

Sec. 27. ~~[NRS 231.067 is hereby amended to read as follows:~~

~~231.067—The [Commission on Economic Development] Office shall:~~

~~1.—Develop a State Plan for Industrial Development and Diversification.~~

~~2.]—Except as otherwise provided in this subsection, promote, encourage and aid the development of commercial, industrial, agricultural, mining and other vital economic interests of this State, except for travel and tourism [.] , to implement the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act. In a county whose population is less than 50,000, the county may include community development and the development of the nongaming recreation and tourism industry in its economic development efforts.~~

~~[3.] 2.—Identify sources of financing to assist businesses and industries which wish to locate or expand in Nevada.~~

~~[4.] 3.—[Provide and administer grants of money to political subdivisions of the State and to local or regional organizations for economic development to assist them in promoting the advantages of their communities, in expanding and retaining businesses in those communities and in recruiting businesses to those communities. Each recipient must provide an amount of money, at least equal to the grant, for the same purpose, except in a county whose population is less than 50,000, the Commission may, if convinced that the recipient is financially unable to do so, provide such a grant with less than equal matching money provided by the recipient.~~

~~5.]—Encourage and assist state, county and city agencies in planning and preparing projects for community, economic and industrial development and financing those projects with revenue bonds or community development block grants.~~

~~[6.] 4.—Except as otherwise provided in this subsection, coordinate and assist the activities of counties, cities [, local] and regional organizations for economic development [in the State] designated by the Executive Director pursuant to subsection 4 of section 14 of this act which affect economic [and industrial] development, except for travel and tourism. In a county whose population is less than 50,000, the county may include community development and the development of the nongaming recreation and tourism industry in its economic development efforts.~~

~~[7.] 5.—Arrange by cooperative agreements with local governments to serve as the single agency in the State where relocating or expanding businesses may obtain all required permits.~~

~~[8.] 6.—Promote close cooperation between public agencies and private persons who have an interest in industrial development and diversification in Nevada.~~

~~[9.] 7. Organize and coordinate the activities of a group of volunteers which will aggressively select and recruit businesses and industries, especially small industries, to locate their offices and facilities in Nevada.~~

~~[10.] 8. As used in this section, "community development block grant" means a grant administered or made available by the United States Department of Housing and Urban Development pursuant to 24 C.F.R. Part 570.] (Deleted by amendment.)~~

Sec. 28. NRS 231.068 is hereby amended to read as follows:

231.068 1. The ~~{Commission on Economic Development}~~ *Office*, to the extent of legislative appropriations, may grant money to a postsecondary educational institution to develop a program for occupational education which is designed to teach skills in a short period to persons who are needed for employment by new or existing businesses.

2. Any money appropriated to the ~~{Commission on Economic Development}~~ *Office* for awarding grants to develop a program specified in subsection 1 must be accounted for separately in the State General Fund. The money in the account:

(a) Does not revert to the State General Fund at the end of any fiscal year; and

(b) Must be carried forward to the next fiscal year.

Sec. 29. NRS 231.0685 is hereby amended to read as follows:

231.0685 The ~~{Commission on Economic Development}~~ *Office* 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}~~ *Office* approved pursuant to NRS 274.310, 274.320, 274.330, ~~for~~ 360.750 ~~or~~ 701A.110 or 701A.365. The report must set forth, for each abatement from taxation that the ~~{Commission}~~ *Office* 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 , facility or building for which the abatement was approved;

3. If applicable, the number of employees that the business or facility for which the abatement was approved employs or will employ;

4. ~~{Whether}~~ If applicable, 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}~~ *Office* determines to be useful.

Sec. 29.5. NRS 231.069 is hereby amended to read as follows:

231.069 1. Except as otherwise provided in NRS 239.0115, if so requested by a client, the Commission on Economic Development shall keep confidential any record or other document in its possession concerning the

initial contact with and research and planning for that client. If such a request is made, the Executive Director of the Commission shall attach to the file containing the record or document a certificate signed by him or her stating that a request for confidentiality was made by the client and the date of the request.

2. Records and documents that are confidential pursuant to subsection 1 remain confidential until the client:

(a) Initiates any process regarding the location of his or her business in Nevada which is within the jurisdiction of a state agency other than the Commission; or

(b) Decides to locate his or her business in Nevada.

Sec. 30. NRS 231.069 is hereby amended to read as follows:

231.069 1. Except as otherwise provided in NRS 239.0115, if so requested by a client, the ~~{Commission on Economic Development}~~ **Office** shall keep confidential any record or other document in its possession concerning the initial contact with and research and planning for that client. If such a request is made, the Executive Director ~~{of the Commission}~~ shall attach to the file containing the record or document a certificate signed by him or her stating that a request for confidentiality was made by the client and the date of the request.

2. Records and documents that are confidential pursuant to subsection 1 remain confidential until the client:

(a) Initiates any process regarding the location of his or her business in Nevada which is within the jurisdiction of a state agency other than the ~~{Commission;}~~ **Office**; or

(b) Decides to locate his or her business in Nevada.

Sec. 30.3. **NRS 231.080 is hereby amended to read as follows:**

231.080 The Executive Director of the Commission on Economic Development:

1. Must be appointed by the Governor from a list of three persons submitted to the Governor by the Commission. The person appointed as Executive Director of the Commission must have had successful experience in the administration and promotion of a program comparable to that provided in NRS 231.020 to 231.130, inclusive.

2. Is responsible to the Commission and serves at its pleasure.

3. Shall, except as otherwise provided in NRS 284.143, devote his or her entire time to the duties of his or her office and shall not follow any other gainful employment or occupation.

Sec. 30.7. **NRS 231.090 is hereby amended to read as follows:**

231.090 The Executive Director of the Commission on Economic Development shall direct and supervise all its administrative and technical activities, including coordinating its plans for economic development,

promoting the production of motion pictures, scheduling the Commission's programs, analyzing the effectiveness of those programs and associated expenditures, and cooperating with other governmental agencies which have programs related to economic development. In addition to other powers and duties, the Executive Director ~~is~~ **of the Commission:**

1. Shall attend all meetings of the Commission and act as its Secretary, keeping minutes and audio recordings or transcripts of its proceedings.

2. Shall report regularly to the Commission concerning the administration of its policies and programs.

3. Shall report annually to the Governor and the Commission regarding the work of the Commission and may make such special reports as he or she considers desirable to the Governor.

4. May perform any other lawful acts which he or she considers desirable to carry out the provisions of NRS 231.020 to 231.130, inclusive.

Sec. 31. NRS 231.125 is hereby amended to read as follows:

231.125 1. The ~~{Commission on Economic Development}~~ **Office** may charge such fees for:

(a) Materials prepared for distribution by the ~~{Commission;}~~ **Office;**

(b) Advertising in materials prepared by the ~~{Commission;}~~ **Office;** and

(c) Services performed by the ~~{Commission}~~ **Office** on behalf of others, such as the procurement of permits,

↪ as it deems necessary to support the activities of the ~~{Commission-}~~ **Office.**

2. All such fees must be deposited with the State Treasurer for credit to the ~~{Commission}~~ **Office** and may be expended in addition to other money appropriated for the support of the ~~{Commission-}~~ **Office.**

Sec. 31.3. **NRS 231.127 is hereby amended to read as follows:**

231.127 1. The Division of Motion Pictures shall formulate a program to promote the production of motion pictures in Nevada. The program must include development of:

(a) A directory of the names of persons, firms and governmental agencies in this State which are capable of furnishing the skills and facilities needed in all phases of the production of motion pictures; and

(b) A library containing ~~{videotapes}~~ **audiovisual recordings** which depict the variety and extent of the locations in this State which are available for the production of motion pictures.

↪ The directory of names and the library of ~~{videotapes}~~ **audiovisual recordings** must be kept current and be cross-referenced.

2. The program may include:

(a) The preparation and distribution of other appropriate promotional and informational material, including advertising, which points out desirable locations within the State for the production of motion pictures, explains the

benefits and advantages of producing motion pictures in this State, and describes the services and assistance available from this State and its local governments;

(b) Assistance to motion picture companies in securing permits to film at certain locations and in obtaining other services connected with the production of motion pictures; and

(c) Encouragement of cooperation among local, state and federal agencies and public organizations in the location and production of motion pictures.

Sec. 31.5. **NRS 231.130 is hereby amended to read as follows:**

231.130 In performing their duties, the Executive Director of the Commission on Economic Development and the Administrator of the Division of Motion Pictures shall not interfere with the functions of any other state agencies, but those agencies shall, from time to time, on request, furnish the Executive Director of the Commission with data and other information from their records bearing on the objectives of the Commission. The Executive Director of the Commission shall avail himself or herself of records and assistance of such other state agencies as in the opinion of the Governor or Executive Director of the Commission might make a contribution to the work of the Commission.

Sec. 31.7. **NRS 231.130 is hereby amended to read as follows:**

231.130 ~~He~~ **Except as otherwise provided by law, in** performing their duties, the Executive Director of the ~~{Commission on Economic Development}~~ **Office** and the Administrator of the Division of Motion Pictures shall not interfere with the functions of any other state agencies, but those agencies shall, from time to time, on request, furnish the Executive Director ~~{of the Commission}~~ with data and other information from their records bearing on the objectives of the ~~{Commission}~~ **Office**. The Executive Director ~~{of the Commission}~~ shall avail himself or herself of records and assistance of such other state agencies as in the opinion of the Governor or Executive Director ~~{of the Commission}~~ might make a contribution to the work of the ~~{Commission}~~ **Office**.

Sec. 32. NRS 231.139 is hereby amended to read as follows:

231.139 1. The ~~{Commission on Economic Development}~~ **Office** shall certify a business for the benefits provided pursuant to NRS 704.223 if the ~~{Commission}~~ **Office** finds that:

(a) The business is consistent with the State Plan for ~~{Industrial Economic Development and}~~ **Diversification and any guidelines adopted pursuant to the Plan;** ~~developed by the Executive Director pursuant to subsection 2 of section 14 of this act;~~

(b) The business is engaged in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate

product through a process in which at least 50 percent of the material or product is recycled on-site;

(c) Establishing the business will require the business to make a capital investment of \$50,000,000 in Nevada; and

(d) The economic benefit to the State of approving the certification exceeds the cost to the State.

2. The ~~{Commission on Economic Development}~~ **Office** may:

(a) Request an allocation from the Contingency Fund pursuant to NRS 353.266, 353.268 and 353.269 to cover the costs incurred by the ~~{Commission}~~ **Office** pursuant to this section and NRS 704.032.

(b) Impose a reasonable fee for an application for certification pursuant to this section to cover the costs incurred by the ~~{Commission}~~ **Office** in investigating and ruling on the application.

(c) Adopt such regulations as it deems necessary to carry out the provisions of this section.

Sec. 32.5. **NRS 231.141 is hereby amended to read as follows:**

231.141 As used in NRS 231.141 to 231.152, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~{231.142,}~~ 231.143 and 231.146 have the meanings ascribed to them in those sections.

Sec. 33. NRS 231.147 is hereby amended to read as follows:

231.147 1. A person who operates a business or will operate a business in this State may apply to the ~~{Commission}~~ **Office** for approval of a program. The application must be submitted on a form prescribed by the ~~{Commission}~~ **Office**.

2. Each application must include:

(a) The name, address and telephone number of the business;

(b) The number and types of jobs for the business that are available or will be available upon completion of the program;

(c) A statement of the objectives of the proposed program;

(d) The estimated cost for each person enrolled in the program; and

(e) A statement signed by the applicant certifying that, if the program set forth in the application is approved and money is granted by the ~~{Commission}~~ **Office** to a community college for the program, each employee who completes the program:

(1) Will be employed in a full-time and permanent position in the business; and

(2) While employed in that position, will be paid not less than 80 percent of the lesser of the average industrial hourly wage in:

(I) This State; or

(II) The county in which the business is located,

↪ as determined by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.



3. Upon request, the ~~{Commission}~~ **Office** may assist an applicant in completing an application pursuant to the provisions of this section.

4. Except as otherwise provided in subsection 5, the ~~{Commission}~~ **Office** shall approve or deny each application ~~[at the next regularly scheduled meeting of the Commission.]~~ ***within 45 days ~~of~~ after receipt of the application.*** When considering an application, the ~~{Commission}~~ **Office** shall give priority to a business that:

- (a) Provides high-skill and high-wage jobs to residents of this State; ~~and~~
- (b) To the greatest extent practicable, uses materials for the business that are produced or bought in this State. ~~H~~ ***; and***

***(c) Is consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act.***

5. Before approving an application, the ~~{Commission}~~ **Office** shall establish the amount of matching money that the applicant must provide for the program. The amount established by the ~~{Commission}~~ **Office** for that applicant must not be less than 25 percent of the amount the ~~{Commission}~~ **Office** approves for the program.

6. If the ~~{Commission}~~ **Office** approves an application, it shall notify the applicant, in writing, within 10 days after the application is approved.

7. If the ~~{Commission}~~ **Office** denies an application, it shall, within 10 days after the application is denied, notify the applicant in writing. The notice must include the reason for denying the application.

Sec. 34. NRS 231.149 is hereby amended to read as follows:

231.149 1. The ~~{Commission}~~ **Office** may apply for or accept any gifts, grants, donations or contributions from any source to carry out the provisions of NRS 231.141 to 231.152, inclusive.

2. Any money the ~~{Commission}~~ **Office** receives pursuant to subsection 1 must be deposited in the State Treasury pursuant to NRS 231.151.

Sec. 35. NRS 231.151 is hereby amended to read as follows:

231.151 1. Any money the ~~{Commission}~~ **Office** receives pursuant to NRS 231.149 or that is appropriated to carry out the provisions of NRS 231.141 to 231.152, inclusive:

- (a) Must be deposited in the State Treasury and accounted for separately in the State General Fund; and
- (b) May only be used to carry out those provisions.

2. Except as otherwise provided in subsection 3, the balance remaining in the account that has not been committed for expenditure on or before June 30 of a fiscal year reverts to the State General Fund.

3. In calculating the uncommitted remaining balance in the account at the end of a fiscal year, any money in the account that is attributable to a gift, grant, donation or contribution:

(a) To the extent not inconsistent with a term of the gift, grant, donation or contribution, shall be deemed to have been committed for expenditure before any money that is attributable to a legislative appropriation; and

(b) Must be excluded from the calculation of the uncommitted remaining balance in the account at the end of the fiscal year if necessary to comply with a term of the gift, grant, donation or contribution.

4. The ~~{Commission}~~ **Office** shall administer the account. Any interest or income earned on the money in the account must be credited to the account. Any claims against the account must be paid as other claims against the State are paid.

Sec. 36. NRS 231.152 is hereby amended to read as follows:

231.152 The ~~{Commission}~~ **Office** may adopt such regulations as are necessary to carry out the provisions of NRS 231.147.

Sec. 37. ~~{NRS 231.153 is hereby amended to read as follows:~~

~~231.153 1. The Nevada Economic Development Fund is hereby created in the State Treasury as a special revenue fund.~~

~~2. Except as otherwise provided in subsection 4, the Nevada Economic Development Fund is a continuing fund without reversion. The money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.~~

~~3. The {Commission on Economic Development} **Office** may accept gifts, grants and donations from any source for deposit in the Nevada Economic Development Fund.~~

~~4. The State Board of Examiners may, upon making a determination that any portion of any amount appropriated by the Legislature for deposit in the Fund is necessary to meet existing or future obligations of the State, recommend to the Interim Finance Committee that the amount so needed be transferred from the Fund to the State General Fund. Upon approval of the Interim Finance Committee, the money may be so transferred. (Deleted by amendment.)~~

Sec. 38. ~~{NRS 231.154 is hereby amended to read as follows:~~

~~231.154 1. Except as otherwise provided in subsections 2 and 3, the {Commission on Economic Development} **Office** shall administer the Nevada Economic Development Fund and may make grants of money to a public agency or nonprofit private entity for the purpose of economic development in a rural area or blighted urban area.~~

~~2. If a nonprofit private entity applies for a grant for the purpose of economic development in a rural area or blighted urban area, the {Commission on Economic Development} **Office** shall consult with the board~~

~~of county commissioners for the county in which the rural area or blighted urban area is located before making a grant to the nonprofit private entity.~~

~~3. The [Commission on Economic Development] Office shall not make a grant from the Nevada Economic Development Fund for the purpose of any economic development relating to the location of a federal nuclear waste repository at Yucca Mountain.~~

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

~~(a) "Blighted urban area" means an area in a county whose population is 100,000 or more which is characterized by one or more of the following factors:~~

~~(1) The existence of buildings and structures, used or intended to be used for residential, commercial, industrial or other purposes, or any combination thereof, which are unfit or unsafe for those purposes and are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime because of one or more of the following factors:~~

~~(I) Defective design and character of physical construction.~~

~~(II) Faulty arrangement of the interior and spacing of buildings.~~

~~(III) Overcrowding.~~

~~(IV) Inadequate provision for ventilation, light, sanitation, open spaces and recreational facilities.~~

~~(V) Age, obsolescence, deterioration, dilapidation, mixed character or shifting of uses.~~

~~(2) An economic dislocation, deterioration or disuse, resulting from faulty planning.~~

~~(3) The subdividing and sale of lots of irregular form and shape and inadequate size for proper usefulness and development.~~

~~(4) The laying out of lots in disregard of the contours and other physical characteristics of the ground and surrounding conditions.~~

~~(5) The existence of inadequate streets, open spaces and utilities.~~

~~(6) The existence of lots or other areas which may be submerged.~~

~~(7) Prevalence of depreciated values, impaired investments and social and economic maladjustment to such an extent that the capacity to pay taxes is reduced and tax receipts are inadequate for the cost of public services rendered.~~

~~(8) A growing or total lack of proper utilization of some parts of the area, resulting in a stagnant and unproductive condition of land which is potentially useful and valuable for contributing to the public health, safety and welfare.~~

~~(9) A loss of population and a reduction of proper use of some parts of the area, resulting in its further deterioration and added costs to the taxpayer for the creation of new public facilities and services elsewhere.~~

~~(b) "Public agency" means:~~

~~(1) This State or any agency of this State; or~~

~~(2) Any local government of this State.~~

~~(c) "Rural area" means an area in a county whose population is less than 100,000.} (Deleted by amendment.)~~

Sec. 39. ~~[NRS 231.155 is hereby amended to read as follows:~~

~~231.155 The [Commission on Economic Development] Office shall adopt regulations establishing criteria and standards for the eligibility for and use of any grants made pursuant to NRS 231.154.] (Deleted by amendment.)~~

Sec. 40. ~~[NRS 231.156 is hereby amended to read as follows:~~

~~231.156 The [Commission on Economic Development] Office shall submit, on or before February 28 of each odd-numbered year, a report to the Director of the Legislative Counsel Bureau for distribution to the regular session of the Legislature. The report must include, without limitation:~~

~~1. The type and amount of each grant of money made pursuant to NRS 231.154 during the previous biennium; and~~

~~2. The progress of each project for economic development that received a grant of money from the Nevada Economic Development Fund.] (Deleted by amendment.)~~

Sec. 41. NRS 231.350 is hereby amended to read as follows:

231.350 1. The Committee for the Development of Projects Relating to Tourism is hereby created within the Commission on Tourism. The Committee consists of:

(a) The Lieutenant Governor, who is an ex officio member of the Committee and shall serve as the Chair of the Committee;

(b) Three members of the ~~[Commission on Economic Development]~~ **Board**, appointed by the Lieutenant Governor; and

(c) Three members of the Commission on Tourism, appointed by the Lieutenant Governor.

2. If an appointed member of the Committee ceases to be a member of the ~~[Commission on Economic Development]~~ **Board** or the Commission on Tourism, the appointed member becomes ineligible for membership on the Committee and the Lieutenant Governor shall appoint a replacement from the ~~[Commission on Economic Development]~~ **Board** or the Commission on Tourism, respectively.

3. The Lieutenant Governor may remove an appointed member from the Committee if the member neglects his or her duty or commits malfeasance in office.

4. The appointed members of the Committee who are members of the ~~[Commission on Economic Development]~~ **Board** or the Commission on Tourism, respectively, may be paid the per diem allowance and travel

expenses provided for state officers and employees generally by their respective commissions, as the budgets of those commissions allow.

5. The Committee shall meet at the call of the Lieutenant Governor.

6. The Commission on Tourism and the ~~{Commission on Economic Development}~~ **Office** shall jointly provide administrative support for the Committee.

Sec. 42. ~~{NRS 231.360 is hereby amended to read as follows:~~

~~231.360 1. The Committee may provide grants of money to counties, cities, and local and regional organizations in this State for the development of projects relating to tourism to the extent that:~~

~~(a) Money in the Fund for the Promotion of Tourism created by NRS 231.250 is made available for that purpose. Not more than \$200,000 of revenue from taxes on the gross receipts from the rental of transient lodging may be made available for that purpose in any biennium.~~

~~(b) Gifts, grants or other money is made available for that purpose.~~

~~2. Except as otherwise provided in this subsection, the State Controller shall, upon the request of the Committee, transfer to the State General Fund all money made available for the use of the Committee pursuant to subsection 1. All such money must be accounted for separately in the State General Fund. The State Controller shall not transfer any revenue from taxes on the gross receipts from the rental of transient lodging from the Fund for the Promotion of Tourism to the State General Fund unless the transfer is approved by the Interim Finance Committee.~~

~~3. The Committee shall administer the account created pursuant to subsection 2 and may make grants only from that account. Any interest earned on the money in the account must be credited to the account quarterly. The money in the account does not revert to the State General Fund at the end of any fiscal year and must be carried forward to the next fiscal year.~~

~~4. The Committee shall:~~

~~(a) Develop and administer the Grant Program for the Development of Projects Relating to Tourism;~~

~~(b) Establish guidelines for the submission and review of applications to receive money from the Grant Program;~~

~~(c) Establish the criteria for eligibility to receive money from the Grant Program; and~~

~~(d) Consider and approve or disapprove applications for money from the Grant Program.~~

~~5. Except as otherwise provided in subsection 6, as a condition of eligibility for a grant from the Committee pursuant to this section, an applicant must provide an amount of money, at least equal to the amount of the grant, for the same purpose.~~

~~6. If an applicant for a grant is from a county whose population is less than 100,000 and the Committee determines that the applicant is financially unable to provide the matching money otherwise required by subsection 5, the Committee may provide a grant with less than equal matching money provided by the applicant.~~ **(Deleted by amendment.)**

Sec. 43. NRS 232.522 is hereby amended to read as follows:

232.522 The Director may:

1. Create within the Department, as part of the Office of the Director, an Office of Business Finance and Planning to:

(a) Administer and coordinate programs related to financing for the assistance of entities engaged in business and industry in this state;

(b) Provide information to the public concerning the regulatory programs, assistance programs, and other services and activities of the Department; and

(c) Interact with other public or private entities to coordinate and improve access to the Department's programs related to the growth and retention of business and industry in this state.

2. Create within the Department, as part of the Office of Business Finance and Planning, a Center for Business Advocacy and Services:

(a) To assist small businesses in obtaining information about financing and other basic resources which are necessary for success;

(b) In cooperation with the Executive Director of the ~~{Commission on}~~ **Office of** Economic Development, to increase public awareness of the importance of developing manufacturing as an industry and to assist in identifying and encouraging public support of businesses and industries that manufacture goods in this state;

(c) To serve as an advocate for small businesses, subject to the supervision of the Director or the Director's representative, both within and outside the Department;

(d) To assist the Office of Business Finance and Planning in establishing an information and referral service within the Department that is responsive to the inquiries of business and industry which are directed to the Department or any entity within the Department; and

(e) In cooperation with the Executive Director of the ~~{Commission on}~~ **Office of** Economic Development, to advise the Director and the Office of Business Finance and Planning in developing and improving programs of the Department to serve more effectively and support the growth, development and diversification of business and industry in this state.

3. Require divisions, offices, commissions, boards, agencies or other entities of the Department to work together to carry out their statutory duties, to resolve or address particular issues or projects or otherwise to increase the efficiency of the operation of the Department as a whole and the level of

communication and cooperation among the various entities within the Department.

Sec. 44. NRS 232.935 is hereby amended to read as follows:

232.935 1. In appointing members of the Governor's Workforce Investment Board, the Governor shall ensure that the membership as a whole represents:

(a) Industry sectors which are essential to this State and which are driven primarily by demand;

(b) Communities and areas of economic development which are essential to this State; and

(c) The diversity of the workforce of this State, including, without limitation, geographic diversity and the diversity within regions of this State.

2. The Governor's Workforce Investment Board shall:

(a) Identify:

(1) Industry sectors which are essential to this State; and

(2) The region or regions of this State where the majority of the operations of each of those industry sectors is conducted.

(b) Establish:

(1) Regional goals for economic development for each of the industry sectors identified pursuant to paragraph (a); and

(2) A council for each industry sector.

(c) Consider and develop programs to promote:

(1) Strategies to improve labor markets for industries and regions of this State, including, without limitation, improving the availability of relevant information;

(2) Coordination of the efforts of relevant public and private agencies and organizations;

(3) Strategies for providing funding as needed by various industry sectors;

(4) Increased production capacities for various industry sectors;

(5) The development of useful measurements of performance and outcomes in various industry sectors;

(6) Participation by and assistance from state and local government agencies;

(7) Expanded market penetration, including, without limitation, by providing assistance to employers with small numbers of employees;

(8) Partnerships between labor and management;

(9) Business associations;

(10) The development of improved instructional and educational resources for employers and employees; and

(11) The development of improved economies of scale, as applicable, in industry sectors.

3. Each industry sector council established pursuant to subparagraph (2) of paragraph (b) of subsection 2:

(a) Must be composed of representatives from:

- (1) Employers within that industry;
- (2) Organized labor within that industry;
- (3) Universities and community colleges; and

(4) Any other relevant group of persons deemed to be appropriate by the Board.

(b) Shall, within the parameters set forth in the American Recovery and Reinvestment Act of 2009 or the parameters of any other program for which the federal funding is available, identify job training and education programs which the industry sector council determines to have the greatest likelihood of meeting the regional goals for economic development established for that industry sector pursuant to subparagraph (1) of paragraph (b) of subsection 2.

4. The Board shall:

(a) Identify and apply for federal funding available for the job training and education programs identified pursuant to paragraph (b) of subsection 3;

(b) Consider and approve or disapprove applications for money;

(c) Provide and administer grants of money to industry sector councils for the purpose of establishing job training and education programs in industry sectors for which regional goals for economic development have been established pursuant to subparagraph (1) of paragraph (b) of subsection 2; and

(d) Adopt regulations establishing:

(1) Guidelines for the submission and review of applications to receive grants of money from the Department; and

(2) Criteria and standards for the eligibility for and use of any grants made pursuant to paragraph (c).

**↳ Except as otherwise required as a condition of federal funding, the regulations required by this subsection must give priority to job training and education programs that are consistent with the State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of section 14 of this act.**

5. *In carrying out its powers and duties pursuant to this section, the Board shall consult with the Executive Director of the Office of Economic Development and shall cooperate with the Executive Director in implementing the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act.*

6. As used in this section, “industry sector” means a group of employers closely linked by common products or services, workforce needs, similar technologies, supply chains or other economic links.



Sec. 45. NRS 75.100 is hereby amended to read as follows:

75.100 1. The Secretary of State shall provide for the establishment of a state business portal to facilitate interaction among businesses and governmental agencies in this State by allowing businesses to conduct necessary transactions with governmental agencies in this State through use of the state business portal.

2. The Secretary of State shall:

(a) Establish, through cooperative efforts, the standards and requirements necessary to design, build and implement the state business portal;

(b) Establish the standards and requirements necessary for a state or local agency to participate in the state business portal;

(c) Authorize a state or local agency to participate in the state business portal if the Secretary of State determines that the agency meets the standards and requirements necessary for such participation;

(d) Determine the appropriate requirements to be used by businesses and governmental agencies conducting transactions through use of the state business portal; ~~and~~

(e) *In carrying out the provisions of this section, consult with the Executive Director of the Office of Economic Development to ensure that the activities of the Secretary of State are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act; and*

(f) Adopt such regulations and take any appropriate action as necessary to carry out the provisions of this chapter.

Sec. 46. NRS 120A.620 is hereby amended to read as follows:

120A.620 1. There is hereby created in the State General Fund the Abandoned Property Trust Account.

2. All money received by the Administrator under this chapter, including the proceeds from the sale of abandoned property, must be deposited by the Administrator in the State General Fund for credit to the Account.

3. Before making a deposit, the Administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of an insurance company, its number, the name of the company and the amount due. The record must be available for public inspection at all reasonable business hours.

4. The Administrator may pay from money available in the Account:

(a) Any costs in connection with the sale of abandoned property.

(b) Any costs of mailing and publication in connection with any abandoned property.

(c) Reasonable service charges.

(d) Any costs incurred in examining the records of a holder and in collecting the abandoned property.

(e) Any valid claims filed pursuant to this chapter.

5. Except as otherwise provided in NRS 120A.610, by the end of each fiscal year, the balance in the Account must be transferred as follows:

(a) ***The sum of \$10,000,000 to the Catalyst Fund created by section 16 of this act.***

(b) ***The sum of \$7,600,000*** ~~each year must be transferred~~ to the Millennium Scholarship Trust Fund created by NRS 396.926.

~~[(b)]~~ (c) The remainder must be transferred to the State General Fund, but remains subject to the valid claims of holders pursuant to NRS 120A.590 and owners pursuant to NRS 120A.640. No such claim may be satisfied from money in the ***Catalyst Fund or the*** Millennium Scholarship Trust Fund.

6. If there is an insufficient amount of money in the Account to pay any cost or charge pursuant to subsection 4, the State Board of Examiners may, upon the application of the Administrator, authorize a temporary transfer from the State General Fund to the Account of an amount necessary to pay those costs or charges. The Administrator shall repay the amount of the transfer as soon as sufficient money is available in the Account.

Sec. 47. NRS 218D.355 is hereby amended to read as follows:

218D.355 1. Any state legislation enacted on or after July 1, ~~2009,~~ ***2012,*** which authorizes or requires the ~~Commission on Economic Development~~ ***Office*** to approve any abatement of taxes or increases the amount of any abatement of taxes which the ~~Commission~~ ***Office*** is authorized or required to approve:

(a) Expires by limitation 10 years after the effective date of that legislation.

(b) Does not apply to:

(1) Any taxes imposed pursuant to NRS 374.110 or 374.190; or

(2) Any entity that receives:

(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.

(c) Requires each recipient of the abatement to submit to the Department of Taxation, on or before the last day of each even-numbered year, a report on whether the recipient is in compliance with the terms of the abatement. The Department of Taxation shall establish a form for the report and may adopt such regulations as it determines to be appropriate to carry out this paragraph. The report must include, without limitation:

(1) The date the recipient commenced operation in this State;

(2) The number of employees actually employed by the recipient and the average hourly wage of those employees;

(3) An accounting of any fees paid by the recipient to the State and to local governmental entities;

(4) An accounting of the property taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(5) An accounting of the sales and use taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(6) An accounting of the total capital investment made in connection with the project to which the abatement applies; and

(7) An accounting of the total investment in personal property made in connection with the project to which the abatement applies.

2. On or before January 15 of each odd-numbered year, the Department of Taxation shall:

(a) Based upon the information submitted to the Department of Taxation pursuant to paragraph (c) of subsection 1, prepare a written report of its findings regarding whether the costs of the abatement exceed the benefits of the abatement; and

(b) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Sec. 47.5. **NRS 274.020 is hereby amended to read as follows:**

274.020 “Administrator” means the ~~state officer appointed by the Governor to administer the provisions of this chapter.~~ **Executive Director of the Office of Economic Development.**

Sec. 48. NRS 274.090 is hereby amended to read as follows:

274.090 1. The ~~Governor shall appoint a qualified person in the Commission on~~ **Executive Director of the Office of Economic Development** ~~to~~ **shall** serve as Administrator.

2. The Administrator shall:

(a) Administer this chapter.

(b) Submit reports evaluating the effectiveness of the programs established pursuant to this chapter together with any suggestions for legislation to the Legislature by February 1 of every odd-numbered year. The reports must contain statistics concerning initial and current population, employment, per capita income, corporate income and the construction of housing for each specially benefited zone.

(c) Adopt all necessary regulations to carry out the provisions of this chapter.

Sec. 49. NRS 274.310 is hereby amended to read as follows:

274.310 1. A person who intends to locate a business in this State within:

(a) A historically underutilized business zone, as defined in 15 U.S.C. § 632;

(b) A redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive;

(c) An area eligible for a community development block grant pursuant to 24 C.F.R. Part 570; or

(d) An enterprise community established pursuant to 24 C.F.R. Part 597, ➔ may submit a request to the governing body of the county, city or town in which the business would operate for an endorsement of an application by the person to the ~~{Commission on}~~ **Office of** Economic Development for a partial abatement of one or more of the taxes imposed pursuant to chapter 361 or 374 of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business would operate. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the ~~{Commission on}~~ **Office of** Economic Development. The ~~{Commission}~~ **Office** shall approve the application if the ~~{Commission}~~ **Office** 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;}~~ **Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of section 14 of this act;** and

(2) Any guidelines adopted ~~{pursuant to the State Plan.}~~ **by the Executive Director of the Office of Economic Development to implement the State Plan for Economic Development.**

(b) The applicant has executed an agreement with the ~~{Commission}~~ **Office** which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(1) Commence operation and continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment

area created pursuant to NRS 279.382 to 279.685, inclusive, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 for a period specified by the ~~{Commission}~~ **Office**, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

↪ The agreement must bind 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 will operate.

(d) The applicant invested or commits to invest a minimum of \$500,000 in capital.

4. If the ~~{Commission on}~~ **Office of Economic Development** approves an application for a partial abatement, the ~~{Commission}~~ **Office** shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(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 of the county in which the business will be located.

5. *If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:*

*(a) To meet the eligibility requirements for the partial abatement; or*

*(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 3,*

*↪ the business shall repay to the Department of Taxation 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.*

6. ~~The {Commission on}~~ **Office of Economic Development** may adopt such regulations as the ~~{Commission}~~ **Office** determines to be necessary or advisable to carry out the provisions of this section.

~~6.1~~ 7. An applicant for an abatement who is aggrieved by a final decision of the ~~{Commission on}~~ **Office of** Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 50. NRS 274.320 is hereby amended to read as follows:

274.320 1. A person who intends to expand a business in this State within:

(a) A historically underutilized business zone, as defined in 15 U.S.C. § 632;

(b) A redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive;

(c) An area eligible for a community development block grant pursuant to 24 C.F.R. Part 570; or

(d) An enterprise community established pursuant to 24 C.F.R. Part 597, ➤ may submit a request to the governing body of the county, city or town in which the business operates for an endorsement of an application by the person to the ~~{Commission on}~~ **Office of** Economic Development for a partial abatement of the taxes imposed on capital equipment pursuant to chapter 374 of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the ~~{Commission on}~~ **Office of** Economic Development. The ~~{Commission}~~ **Office** shall approve the application if the ~~{Commission}~~ **Office** 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;}~~ **Economic Development developed by the Executive Director of Economic Development pursuant to subsection 2 of section 14 of this act;** and

(2) Any guidelines adopted ~~{pursuant to the State Plan.}~~ **by the Executive Director of the Office of Economic Development to implement the State Plan for Economic Development.**

(b) The applicant has executed an agreement with the ~~{Commission}~~ **Office** which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(1) Continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 for a period specified by the ~~{Commission}~~ **Office**, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

↪ The agreement must bind 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 applicant invested or commits to invest a minimum of \$250,000 in capital equipment.

4. If the ~~{Commission on}~~ **Office of** Economic Development approves an application for a partial abatement, the ~~{Commission}~~ **Office** shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation; and

(b) The Nevada Tax Commission.

5. **If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:**

**(a) To meet the eligibility requirements for the partial abatement; or**

**(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 3,**

**↪ the business shall repay to the Department of Taxation 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.**

6. The ~~{Commission on}~~ **Office of** Economic Development may adopt such regulations as the ~~{Commission}~~ **Office** determines to be necessary or advisable to carry out the provisions of this section.

~~6.~~ 7. An applicant for an abatement who is aggrieved by a final decision of the ~~{Commission on}~~ **Office of Economic Development** may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 51. NRS 274.330 is hereby amended to read as follows:

274.330 1. A person who owns a business which is located within an enterprise community established pursuant to 24 C.F.R. Part 597 in this State may submit a request to the governing body of the county, city or town in which the business is located for an endorsement of an application by the person to the ~~{Commission on}~~ **Office of Economic Development** for a partial abatement of one or more of the taxes imposed pursuant to chapter 361 or 374 of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the ~~{Commission on}~~ **Office of Economic Development**. The ~~{Commission}~~ **Office** shall approve the application if the ~~{Commission}~~ **Office** 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;}~~ **Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of section 14 of this act;** and

(2) Any guidelines adopted ~~{pursuant to the State Plan.}~~ **by the Executive Director of the Office of Economic Development to implement the State Plan for Economic Development.**

(b) The applicant has executed an agreement with the ~~{Commission}~~ **Office** which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(1) Continue in operation in the enterprise community for a period specified by the ~~{Commission.}~~ **Office**, which must be at least 5 years; and



(2) Continue to meet the eligibility requirements set forth in this subsection.

↪ The agreement must bind 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:

(1) Employs one or more dislocated workers who reside in the enterprise community; and

(2) Pays such employees a wage of not less than 100 percent of the federally designated level signifying poverty for a family of four persons and provides medical benefits to the employees and their dependents.

4. If the ~~[Commission on]~~ **Office of** Economic Development approves an application for a partial abatement, the ~~[Commission]~~ **Office** shall:

(a) Determine the percentage of employees of the business which meet the requirements of paragraph (d) of subsection 3 and grant a partial abatement equal to that percentage; and

(b) Immediately forward a certificate of eligibility for the abatement to:

(1) The Department of Taxation;

(2) The Nevada Tax Commission; and

(3) 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 is located.

5. ***If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:***

***(a) To meet the eligibility requirements for the partial abatement; or***

***(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 3,***

***↪ the business shall repay to the Department of Taxation 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.***

**6.** ~~The [Commission on]~~ *Office of Economic Development:*

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

(b) May adopt such other regulations as the ~~[Commission]~~ *Office* determines to be necessary or advisable to carry out the provisions of this section.

~~6.7.~~ **7.** An applicant for an abatement who is aggrieved by a final decision of the ~~[Commission on]~~ *Office of Economic Development* may petition for judicial review in the manner provided in chapter 233B of NRS.

~~7.7.~~ **8.** As used in this section, "dislocated worker" means a person who:

(a) Has been terminated, laid off or received notice of termination or layoff from employment;

(b) Is eligible for or receiving or has exhausted his or her entitlement to unemployment compensation;

(c) Has been dependent on the income of another family member but is no longer supported by that income;

(d) Has been self-employed but is no longer receiving an income from self-employment because of general economic conditions in the community or natural disaster; or

(e) Is currently unemployed and unable to return to a previous industry or occupation.

Sec. 52. ~~[NRS 277.340 is hereby amended to read as follows:]~~

~~277.340 1. The initial governing body of a regional development district consists of the representatives of the counties and cities appointed pursuant to NRS 277.335. The initial governing body shall meet to determine the composition of the board of directors of the district. The board must include:~~

~~(a) At least one representative of each county and city that has elected to be a member of the district;~~

~~(b) At least one member from each economic development authority in the development region that is [recognized] *designated* by the [Executive Director of the Commission on] *Board of Economic Development* [;] *pursuant to subsection 4 of section 14 of this act;*~~

~~(c) At least one member appointed by the native American tribal councils located in the region; and~~

~~(d) Representatives of the general public in the development region representing broad public interests within the region and a diversity of membership based on factors such as age, gender and race;~~

~~At least 51 percent of the members of the board must be elected officers who represent counties and cities in the region.~~

~~2. After the initial governing body has established a board, the board shall meet to adopt bylaws setting forth its procedures and governing its operations. The bylaws must provide for the terms of office and method of selection of members of the board, and must establish a name for the organization.~~

~~3. The board shall annually establish an operating budget, the amount of dues that must be paid by members of the district and a schedule for payment of the dues.~~

~~4. Membership in a regional development district is voluntary. Each county and city within the development region shall determine annually whether to remain or become a member of the regional development district. If a county or city determines to become a member of the district, it shall pay the dues established pursuant to subsection 3. A county or city that is not a member of the district is not entitled to be represented on the board.]~~  
**(Deleted by amendment.)**

**Sec. 52.3. Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:**

**1. Except as otherwise provided in NRS 349.640, the Director shall not finance a project without the approval of the Office of Economic Development. The Office shall approve the financing of a project if it determines that the project is consistent with the State Plan for Economic Development developed by the Executive Director of the Office pursuant to subsection 2 of section 14 of this act.**

**2. The Director shall cooperate with the Office of Economic Development in carrying out the provisions of this section and provide such assistance as the Office determines to be necessary for that purpose.**

**Sec. 52.5. NRS 349.400 is hereby amended to read as follows:**

349.400 As used in NRS 349.400 to 349.670, inclusive, **and section 52.3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 349.405 to 349.540, inclusive, have the meanings ascribed to them in those sections.

**Sec. 52.7. NRS 349.560 is hereby amended to read as follows:**

349.560 It is the intent of the Legislature to authorize the Director **, with the approval of the Office of Economic Development,** to finance, acquire, own, lease, improve and dispose of properties to:

1. Promote industry and employment and develop trade by inducing manufacturing, industrial, warehousing and commercial enterprises and organizations for research and development to locate, remain or expand in this state to further prosperity throughout the State and to further the use of the agricultural products and the natural resources of this state.

2. Enhance public safety by protecting hotels, motels, apartment buildings, casinos, office buildings and their occupants from fire.

3. Promote the public health by enabling the acquisition, development, expansion and maintenance of health and care facilities and supplemental facilities for health and care facilities which will provide services of high quality at reasonable rates to the residents of the community in which the facilities are situated.

4. Promote the educational, cultural, economic and general welfare of the public by financing civic and cultural enterprises, certain educational institutions and the preservation or restoration of historic structures.

5. Promote the social welfare of the residents of this state by enabling a corporation for public benefit to acquire, develop, expand and maintain facilities that provide services for those residents.

6. Promote the generation of electricity in this state.

Sec. 53. ~~[NRS 345.100 is hereby amended to read as follows:~~

~~345.100 The Director shall determine the format, substance, time of preparation, distribution, cost and all other matters pertaining to the publication of the biennial report and the statistical abstract after consultation with the Bureau of Business and Economic Research of the Nevada System of Higher Education, the [Commission on] Office of Economic Development and the State Library and Archives.] (Deleted by amendment.)~~

Sec. 53.3. **NRS 349.580 is hereby amended to read as follows:**

349.580 Except as otherwise provided in NRS 349.595 and 349.640, the Director shall not finance a project unless, before financing:

1. The Director finds that:

(a) The project to be financed has been approved for financing pursuant to the requirements of NRS 244A.669 to 244A.763, inclusive, or 268.512 to 268.568, inclusive; and

(b) There has been a request by a city or county to have the Director issue bonds to finance the project; or

2. The Director finds and both the Board and the governing body of the city or county where the project is to be located approve the findings of the Director that:

(a) The project consists of any land, building or other improvement and all real and personal properties necessary in connection therewith, excluding inventories, raw materials and working capital, whether or not in existence, which is suitable for new construction, improvement, preservation, restoration, rehabilitation or redevelopment:

(1) For manufacturing, industrial, warehousing, civic, cultural or other commercial enterprises, educational institutions, corporations for public benefit or organizations for research and development;

(2) For a health and care facility or a supplemental facility for a health and care facility;

(3) Of real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire;

(4) Of a historic structure; or

(5) For a renewable energy generation project;

(b) The project will provide a public benefit;

(c) The contemplated lessee, purchaser or other obligor has sufficient financial resources to place the project in operation and to continue its operation, meeting the obligations of the lease, purchase contract or financing agreement;

(d) There are sufficient safeguards to assure that all money provided by the Department will be expended solely for the purposes of the project;

(e) The project would be compatible with existing facilities in the area adjacent to the location of the project;

(f) ~~The project:~~

~~(1) Is compatible with the plan of the State for economic diversification and development or for the marketing and development of tourism in this state; or~~

~~(2) Promotes the generation of electricity in this state;~~

~~(g)~~ Through the advice of counsel or other reliable source, the project has received all approvals by the local, state and federal governments which may be necessary to proceed with construction, improvement, rehabilitation or redevelopment of the project; and

~~(h)~~ (g) There has been a request by a city, county, lessee, purchaser, other obligor or other enterprise to have the Director issue revenue bonds for industrial development to finance the project.

Sec. 53.5. **NRS 349.595 is hereby amended to read as follows:**

349.595 1. ~~The~~ **Except as otherwise provided in section 52.3 of this act, the** Director may provide financing for a project pursuant to this section if:

(a) The financing is limited in amount and purpose to the payment of the costs associated with:

(1) The acquisition, refurbishing, replacement and installation of equipment for the project; and

(2) The issuance of bonds pursuant to this section;

(b) The total amount of the bonds issued pursuant to this section for a particular project does not exceed \$2,500,000;

(c) The Director determines that the bonds will:

(1) Be sold only to qualified institutional buyers, as defined in Rule 144A of the Securities and Exchange Commission, 17 C.F.R. § 230.144A, in minimum denominations of at least \$100,000; or

(2) Receive a rating within one of the top four rating categories of Moody's Investors Service, Inc., Standard and Poor's Rating Services or Fitch IBCA, Inc.;

(d) The Director makes the findings set forth in paragraphs (a) to ~~(c), inclusive, (g) and (h)~~ **(g), inclusive,** of subsection 2 of NRS 349.580, and the governing body of the city or county where the project is to be located approves the findings of the Director; and

(e) The Director complies with the guidelines established pursuant to subsection 2.

2. The Board shall establish guidelines for the provision of financing for a project pursuant to this section.

Sec. 53.7. **NRS 349.640 is hereby amended to read as follows:**

349.640 1. Any bonds issued under the provisions of NRS 244A.669 to 244A.763, inclusive, 268.512 to 268.568, inclusive, or 349.400 to 349.670, inclusive, **and section 52.3 of this act** may be refunded by the Director by the issuance of refunding bonds in an amount which the Director deems necessary to refund the principal of the bonds to be so refunded, any unpaid interest thereon and any premiums and incidental expenses necessary to be paid in connection with refunding.

2. Refunding may be carried out whether the bonds to be refunded have matured or thereafter mature, either by sale of the refunding bonds and the application of the proceeds to the payment of the bonds to be refunded, or by exchange of the refunding bonds for the bonds to be refunded. The holders of the bonds to be refunded must not be compelled, without their consent, to surrender their bonds for payment or exchange before the date on which they are payable by maturity, option to redeem or otherwise, or if they are called for redemption before the date on which they are by their terms subject to redemption by option or otherwise.

3. All refunding bonds issued pursuant to this section must be payable solely from revenues and other money out of which the bonds to be refunded thereby are payable or from revenues out of which bonds of the same character may be made payable under this or any other law then in effect at the time of the refunding.

4. The Director shall not issue refunding bonds unless before the refinancing the Director finds that issuance of refunding bonds will provide a lower cost of financing for the obligor or provide some other public benefit, but the findings, ~~and~~ determinations **and approval** required by NRS 349.580, 349.590 and 349.595 **and section 52.3 of this act** are not required with respect to refunding bonds issued pursuant to this section.

Sec. 54. NRS 349.800 is hereby amended to read as follows:

349.800 1. If the Director certifies to the Governor that there is a need to issue revenue bonds to carry out the program and that it is feasible to do

so, the Governor may issue an executive order creating an Advisory Committee on Financing Exports, consisting of three members appointed by the Director.

2. The Director, in consultation with the Executive Director of the ~~{Commission on}~~ **Office of** Economic Development and with the approval of the Governor, shall appoint to serve as members of the Committee three persons who have proven experience in international trade and economic development which they acquired while engaged in finance, manufacturing, business administration, municipal finance, economics, law or general business.

3. After the initial terms, the term of each member is 3 years.

Sec. 55. 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,

➡ 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}~~ **Office of** Economic Development and take any other necessary actions.

Sec. 56. 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}~~ **Office of** Economic Development 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}~~ **Office of** Economic Development shall approve an application for a partial abatement if the ~~{Commission}~~ **Office** 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;}~~ **Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of section 14 of this act;** and

(2) Any guidelines adopted ~~by the Commission pursuant to the State Plan~~ **by the Executive Director of the Office to implement the State Plan for Economic Development.**

(b) The applicant has executed an agreement with the ~~Commission~~ **Office** 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~~ **Office**, 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~~ **Office** 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~~ **Office** 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~~ **Office** by regulation pursuant to subsection 8.

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), 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}~~ **Office** by regulation pursuant to subsection 8.

3. Notwithstanding the provisions of subsection 2, the ~~{Commission-on}~~ **Office of Economic Development**:

(a) Shall not consider an application for a partial abatement unless the ~~{Commission}~~ **Office** 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}~~ **Office** determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) 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.

4. If the ~~{Commission-on}~~ **Office of Economic Development** approves an application for a partial abatement, the ~~{Commission}~~ **Office** 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}~~ **Office of 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~~ **Office of** 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; and

(b) May adopt such other regulations as the ~~Commission on~~ **Office of** 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 abatement who is aggrieved by a final decision of the ~~{Commission on}~~ **Office of** Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 57. NRS 360.755 is hereby amended to read as follows:

360.755 1. If the ~~{Commission on}~~ **Office of** Economic Development approves an application by a business for a partial abatement pursuant to NRS 360.750, the agreement with the ~~{Commission}~~ **Office** 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}~~ **Office of** 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}~~ **Office of** 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}~~ **Office of** 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}~~ **Office of** Economic Development is a public record; and

(b) Upon request by any person, the Executive Director of the ~~{Commission on}~~ **Office of** 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}~~ **Office of** 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}~~ **Office of** Economic Development unless the business consents to the disclosure.

Sec. 58. NRS 360.757 is hereby amended to read as follows:

360.757 1. ~~If the {Commission on}~~ **The Office of** Economic Development ~~{receives an}~~ **shall not take any action on an** application for any abatement of taxes ~~{imposed on a business, the {Commission} {Office shall, at}~~ **pursuant to NRS 274.310, 274.320, 274.330, 360.750, 701A.110 or 701A.365 or any other specific statute unless the Office:**

**(a) Takes that action at a public hearing conducted for that purpose; and**

**(b) At** least 30 days before the ~~{meeting at which the {Commission} {Office takes any action on the application, provide}~~ **hearing, provides** notice of the application to:

~~{(a)}~~ **(1)** The governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the **pertinent business, facility or building** is or will be located; ~~and~~

~~{(b)}~~ **(2)** The governing body of any other political subdivision that could be affected by the abatement ~~to~~; **and**

**(3) The general public.**

2. The notice required by this section must set forth the date, time and location of the ~~{meeting}~~ **hearing** at which the ~~{Commission on}~~ **Office of** Economic Development will consider the application.

3. The ~~{Commission on}~~ **Office of** Economic Development shall adopt regulations relating to the notice required by this section.

Sec. 59. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the ~~{Commission on}~~ **Office of** Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the ~~{Commission on}~~ **Office of** Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

- (a) 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:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and

(2) 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.

(b) 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:

(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and

(2) 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.

3. Except as otherwise provided in NRS 701A.210, if a partial abatement from the taxes imposed by this chapter is approved by the ~~{Commission on}~~ **Office of** Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the ~~{Commission on}~~ **Office of** Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the ~~{Commission}~~ **Office** granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

Sec. 60. NRS 363B.120 is hereby amended to read as follows:

363B.120 1. An employer that qualifies pursuant to the provisions of NRS 360.750 is entitled to an exemption of 50 percent of the amount of tax otherwise due pursuant to NRS 363B.110 during the first 4 years of its operation.

2. If a partial abatement from the taxes otherwise due pursuant to NRS 363B.110 is approved by the ~~{Commission on}~~ **Office of** Economic Development pursuant to NRS 360.750, the partial abatement must be administered and carried out in the manner set forth in NRS 360.750.

Sec. 61. NRS 372.397 is hereby amended to read as follows:

372.397 1. Payment of the tax on the sale of capital goods for a sales price of \$100,000 or more may be deferred without interest in accordance with this section. If the sales price is:

(a) At least \$100,000 but less than \$350,000, the tax must be paid within 12 months.

(b) At least \$350,000 but less than \$600,000, the tax must be paid within 24 months.

(c) At least \$600,000 but less than \$850,000, the tax must be paid within 36 months.

(d) At least \$850,000 but less than \$1,000,000, the tax must be paid within 48 months.

(e) One million dollars or more, the tax must be paid within 60 months.

➔ Payment must be made in each month at a rate which is at least sufficient to result in payment of the total obligation within the permitted period.

2. A person may apply to the ~~{Commission on}~~ **Office of** Economic Development for such a deferment. If a purchase is made outside of the State from a retailer who is not registered with the Department, an application for a deferment must be made in advance or, if the purchase has been made, within 60 days after the date on which the tax is due. If a purchase is made in this State from a retailer who is registered with the Department and to whom the tax is paid, an application must be made within 60 days after the payment of the tax. If the application for a deferment is approved, the taxpayer is eligible for a refund of the tax paid.

3. The ~~{Commission on}~~ **Office of** Economic Development shall certify the person's eligibility for a deferment if:

(a) The purchase is consistent with the ~~{Commission's plan for industrial development and diversification;}~~ **State Plan for Economic Development developed by the Executive Director of the Office pursuant to subsection 2 of section 14 of this act;** and

(b) The ~~{Commission}~~ **Office** determines that the deferment is a significant factor in the decision of the person to locate or expand a business in this State.

➔ Upon certification, the ~~{Commission}~~ **Office** shall immediately forward the deferment to the Nevada Tax Commission.

4. Upon receipt of such a certification, the Nevada Tax Commission shall verify the sale, the price paid and the date of the sale and assign the

applicable period for payment of the deferred tax. It may require security for the payment in an amount which does not exceed the amount of tax deferred.

5. The Nevada Tax Commission shall adopt regulations governing:

(a) The aggregation of related purchases which are made to expand a business, establish a new business, or renovate or replace capital equipment; and

(b) The period within which such purchases may be aggregated.

Sec. 62. NRS 374.357 is hereby amended to read as follows:

374.357 1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the ~~Commission on~~ *Office of* Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. If an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. As used in this section, unless the context otherwise requires, "eligible machinery or equipment" means machinery or equipment for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

(a) Buildings or the structural components of buildings;

(b) Equipment used by a public utility;

(c) Equipment used for medical treatment;

(d) Machinery or equipment used in mining; or

(e) Machinery or equipment used in gaming.

Sec. 63. NRS 374.402 is hereby amended to read as follows:

374.402 1. Payment of the tax on the sale of capital goods for a sales price of \$100,000 or more may be deferred without interest in accordance with this section. If the sales price is:

(a) At least \$100,000 but less than \$350,000, the tax must be paid within 12 months.

(b) At least \$350,000 but less than \$600,000, the tax must be paid within 24 months.

(c) At least \$600,000 but less than \$850,000, the tax must be paid within 36 months.

(d) At least \$850,000 but less than \$1,000,000, the tax must be paid within 48 months.



(e) One million dollars or more, the tax must be paid within 60 months.

➡ Payment must be made in each month at a rate which is at least sufficient to result in payment of the total obligation within the permitted period.

2. A person may apply to the ~~{Commission on}~~ **Office of** Economic Development for such a deferment. If a purchase is made outside of the State from a retailer who is not registered with the Department, an application for a deferment must be made in advance or, if the purchase has been made, within 60 days after the date on which the tax is due. If a purchase is made in this State from a retailer who is registered with the Department and to whom the tax is paid, an application must be made within 60 days after the payment of the tax. If the application for a deferment is approved, the taxpayer is eligible for a refund of the tax paid.

3. The ~~{Commission on}~~ **Office of** Economic Development shall certify the person's eligibility for a deferment if:

(a) The purchase is consistent with the ~~{Commission's plan for industrial development and diversification;}~~ ***State Plan for Economic Development developed by the Executive Director of the Office pursuant to subsection 2 of section 14 of this act;*** and

(b) The ~~{Commission}~~ **Office** determines that the deferment is a significant factor in the decision of the person to locate or expand a business in this State.

➡ Upon certification, the ~~{Commission}~~ **Office** shall immediately forward the deferment to the Nevada Tax Commission.

4. Upon receipt of such a certification, the Nevada Tax Commission shall verify the sale, the price paid and the date of the sale and assign the applicable period for payment of the deferred tax. It may require security for the payment in an amount which does not exceed the amount of tax deferred.

5. The Nevada Tax Commission shall adopt regulations governing:

(a) The aggregation of related purchases which are made to expand a business, establish a new business, or renovate or replace capital equipment; and

(b) The period within which such purchases may be aggregated.

Sec. 64. NRS 380A.041 is hereby amended to read as follows:

380A.041 1. The Governor shall appoint to the Council:

(a) A representative of public libraries;

(b) A trustee of a legally established library or library system;

(c) A representative of school libraries;

(d) A representative of academic libraries;

(e) A representative of special libraries or institutional libraries;

(f) A representative of persons with disabilities;

(g) A representative of the public who uses these libraries;

(h) A representative of recognized state labor organizations;

- (i) A representative of private sector employers;
- (j) A representative of private literacy organizations, voluntary literacy organizations or community-based literacy organizations; and
- (k) A classroom teacher who has demonstrated outstanding results in teaching children or adults to read.

2. The director of the following state agencies or their designees shall serve as ex officio members of the Council:

- (a) The Department of Cultural Affairs;
- (b) The Department of Education;
- (c) The Department of Employment, Training and Rehabilitation;
- (d) The Department of Health and Human Services;
- (e) The ~~Commission on~~ **Office of** Economic Development; and
- (f) The Department of Corrections.

3. Officers of State Government whose agencies provide funding for literacy services may be designated by the Governor or the Chair of the Council to serve whenever matters within the jurisdiction of the agency are considered by the Council.

4. The Governor shall ensure that there is appropriate representation on the Council of urban and rural areas of the State, women, persons with disabilities, and racial and ethnic minorities.

5. A person may not serve as a member of the Council for more than two consecutive terms.

Sec. 65. NRS 408.210 is hereby amended to read as follows:

408.210 1. The Director may restrict the use of, or close, any highway whenever the Director considers the closing or restriction of use necessary:

- (a) For the protection of the public.
- (b) For the protection of such highway from damage during storms or during construction, reconstruction, improvement or maintenance operations thereon.
- (c) To promote economic development or tourism in the best interest of the State or upon the written request of the Executive Director of the ~~Commission on~~ **Office of** Economic Development or the Director of the Commission on Tourism.

2. The Director may:

- (a) Divide or separate any highway into separate roadways, wherever there is particular danger to the traveling public of collisions between vehicles proceeding in opposite directions or from vehicular turning movements or cross-traffic, by constructing curbs, central dividing sections or other physical dividing lines, or by signs, marks or other devices in or on the highway appropriate to designate the dividing line.

(b) Lay out and construct frontage roads on and along any highway or freeway and divide and separate any such frontage road from the main

highway or freeway by means of curbs, physical barriers or by other appropriate devices.

3. The Director may remove from the highways any unlicensed encroachment which is not removed, or the removal of which is not commenced and thereafter diligently prosecuted, within 5 days after personal service of notice and demand upon the owner of the encroachment or the owner's agent. In lieu of personal service upon that person or agent, service of the notice may also be made by registered or certified mail and by posting, for a period of 5 days, a copy of the notice on the encroachment described in the notice. Removal by the Department of the encroachment on the failure of the owner to comply with the notice and demand gives the Department a right of action to recover the expense of the removal, cost and expenses of suit, and in addition thereto the sum of \$100 for each day the encroachment remains beyond 5 days after the service of the notice and demand.

4. If the Director determines that the interests of the Department are not compromised by a proposed or existing encroachment, the Director may issue a license to the owner or the owner's agent permitting an encroachment on the highway. Such a license is revocable and must provide for relocation or removal of the encroachment in the following manner. Upon notice from the Director to the owner of the encroachment or the owner's agent, the owner or agent may propose a time within which he or she will relocate or remove the encroachment as required. If the Director and the owner or the owner's agent agree upon such a time, the Director shall not himself remove the encroachment unless the owner or the owner's agent has failed to do so within the time agreed. If the Director and the owner or the owner's agent do not agree upon such a time, the Director may remove the encroachment at any time later than 30 days after the service of the original notice upon the owner or the owner's agent. Service of notice may be made in the manner provided by subsection 3. Removal of the encroachment by the Director gives the Department the right of action provided by subsection 3, but the penalty must be computed from the expiration of the agreed period or 30-day period, as the case may be.

Sec. 66. NRS 417.105 is hereby amended to read as follows:

417.105 1. Each year on or before October 1, the Office of Veterans' Services shall review the reports submitted pursuant to NRS 333.3368 and 338.13846.

2. In carrying out the provisions of subsection 1, the Office of Veterans' Services shall seek input from:

- (a) The Purchasing Division of the Department of Administration.
- (b) The State Public Works Board.
- (c) The ~~Commission on~~ **Office of** Economic Development.

(d) Groups representing the interests of veterans of the Armed Forces of the United States.

(e) The business community.

(f) Local businesses owned by veterans with service-connected disabilities.

3. After performing the duties described in subsections 1 and 2, the Office of Veterans' Services shall make recommendations to the Legislative Commission regarding the continuation, modification, promotion or expansion of the preferences for local businesses owned by veterans with service-connected disabilities which are described in NRS 333.3366 and 338.13844.

4. As used in this section:

(a) "Business owned by a veteran with a service-connected disability" has the meaning ascribed to it in NRS 338.13841.

(b) "Local business" has the meaning ascribed to it in NRS 333.3363.

(c) "Veteran with a service-connected disability" has the meaning ascribed to it in NRS 338.13843.

Sec. 67. NRS 670.130 is hereby amended to read as follows:

670.130 In furtherance of its purposes and in addition to the powers conferred on business corporations by law, the corporation has, subject to the restrictions and limitations contained in this chapter, the following powers:

1. To elect, appoint and employ officers, agents and employees, to make contracts and incur liabilities for any of the purposes of the corporation. The corporation shall not incur any secondary liability by way of guaranty or endorsement of the obligations of any natural person, firm, corporation, joint-stock company, association or trust, or in any other manner, except that the corporation may guarantee or endorse obligations of borrowers.

2. To borrow money and negotiate guarantees from federal agencies for any of the purposes of the corporation, to issue its bonds, debentures, notes or other evidences of indebtedness, whether secured or unsecured, and to secure them by mortgage, pledge, deed of trust or other lien on its property, franchises, rights and privileges of every kind and nature, or any part of them or interest in them, without securing stockholder approval.

3. To make loans to any natural person, firm, corporation, joint-stock company, association or trust, and to establish and regulate the terms and conditions with respect to those loans and the charges for interest and service connected therewith, except that the corporation shall not approve any application for a loan unless the person applying for the loan shows that he or she has applied for the loan through ordinary banking channels and that the loan has been refused by at least one bank or other financial institution.

4. To purchase, receive, hold, lease or otherwise acquire, and to sell, convey, transfer, lease or otherwise dispose of real and personal property,

together with such rights and privileges as may be incidental and appurtenant to the property and the use of it, including but not restricted to any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations.

5. To acquire the goodwill, business, rights, real and personal property and other assets, or any part of them, or interest in them, of any natural person, firm, corporation, joint-stock company, association or trust, and to assume, undertake or pay the obligations, debts and liabilities of that natural person, firm, corporation, joint-stock company, association or trust; to acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments on it or for the purpose of disposing of that real estate to others for the construction of industrial plants or other business establishments; and to acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease or otherwise dispose of industrial plants or business establishments.

6. To acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the stock, shares, bonds, debentures, notes or other securities and evidences of interest in or indebtedness of any natural person, firm, corporation, joint-stock company, association or trust, and while the owner or holder thereof to exercise all the rights, powers and privileges of ownership including the right to vote thereon.

7. To mortgage, pledge or otherwise encumber any property, right or thing of value acquired pursuant to the powers contained in subsection 4, 5 or 6 as security for the payment of any part of the purchase price of them.

8. To cooperate with and avail itself of the facilities of the United States Department of Commerce, the ~~{Commission on}~~ *Office of* Economic Development and any other similar state or federal governmental agencies; and to cooperate with and assist, and otherwise encourage organizations in the various communities of the State in the promotion, assistance and development of the business prosperity and economic welfare of those communities or of this state.

9. To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter.

Sec. 68. NRS 670A.150 is hereby amended to read as follows:

670A.150 In furtherance of its purposes and in addition to the powers conferred on business corporations by law, the corporation may, subject to the restrictions and limitations contained in this chapter:

1. Elect, appoint and employ officers, agents and employees, make contracts, including without limitation, contracts to share personnel and services with other public or private entities to carry out the State Plan for Economic Development, and may incur liabilities for any of the purposes of the corporation. The corporation shall not incur any secondary liability by

way of guaranty or endorsement of the obligations of any natural person, firm, corporation, joint-stock company, association or trust, or in any other manner, except that the corporation may guarantee or endorse industrial revenue bonds, individually or in groups, issued under the laws of this state and the obligations of borrowers.

2. Borrow money and negotiate guarantees from federal agencies for any of the purposes of the corporation, issue its bonds, debentures, notes or other evidences of indebtedness, whether secured or unsecured, and may secure them by mortgage, pledge, deed of trust or other lien on its property, franchises, rights and privileges of every kind and nature, or any part of them or interest in them, without securing stockholder approval.

3. Make loans to any natural person, firm, corporation, joint-stock company, association or trust, and may establish and regulate the terms and conditions with respect to those loans and the charges for interest and service connected therewith, except that the corporation shall not approve any application for a loan unless the person applying for the loan shows that he or she has applied for the loan through ordinary banking channels and that the loan has been refused by at least one bank or other financial institution.

4. Purchase, receive, hold, lease or otherwise acquire, and to sell, convey, transfer, lease or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant to the property and the use of it, including but not restricted to any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations.

5. Acquire the goodwill, business, rights, real and personal property and other assets, or any part of them, or interest in them, of any natural person, firm, corporation, joint-stock company, association or trust, and assume, undertake or pay the obligations, debts and liabilities of that natural person, firm, corporation, joint-stock company, association or trust; to acquire improved or unimproved real estate to construct industrial plants or other business establishments on it or to dispose of that real estate to others for the construction of industrial plants or other business establishments; and may acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease or otherwise dispose of industrial plants or business establishments.

6. Acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the stock, shares, bonds, debentures, notes or other securities and evidences of interest in or indebtedness of any natural person, firm, corporation, joint-stock company, association or trust, and while the owner or holder thereof may exercise all the rights, powers and privileges of ownership including the right to vote thereon.

7. Mortgage, pledge or otherwise encumber any property, right or thing of value acquired pursuant to the powers contained in subsection 4, 5 or 6 as security for the payment of any part of the purchase price of them.

8. Cooperate with and avail itself of the facilities of the United States Department of Commerce, the ~~{Commission on}~~ *Office of* Economic Development and any other similar state or federal governmental agencies and may cooperate with and assist, and otherwise encourage organizations in the various communities of the State in the promotion, assistance and development of the business prosperity and economic welfare of those communities or of this state.

9. Do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter.

Sec. 69. NRS 670A.180 is hereby amended to read as follows:

670A.180 1. The business and affairs of the corporation must be managed and conducted by a board of directors, a president, a vice president, a secretary, a treasurer and such other officers and agents as the corporation by its bylaws may authorize. The board of directors must consist of a number not less than 9 nor more than 15 as may be determined in the first instance by the incorporators and after that annually by the stockholders of the corporation. The Director of the Department of Business and Industry and the Executive Director of the ~~{Commission on}~~ *Office of* Economic Development shall serve ex officio as nonvoting directors, but without any liability as such, except for gross negligence or willful misconduct.

2. The board of directors may exercise all the powers of the corporation except those conferred by law or by the bylaws of the corporation upon the stockholders and shall choose and appoint all the agents and officers of the corporation and fill all vacancies except vacancies in the office of director, which must be filled as provided in this section.

3. The voting directors must be elected in the first instance by the incorporators and after that at least five directors must be elected by the members of the corporation and at least two directors must be elected by the stockholders at the annual meeting. The annual meeting must be held during the month of January or, if no annual meeting is held in the year of incorporation, then within 90 days after the approval of the articles of incorporation at a special meeting as provided in this chapter.

4. The voting directors shall hold office until the next annual meeting of the corporation or special meeting held in lieu of the annual meeting after the election and until their successors are elected and qualified, unless sooner removed in accordance with the provisions of the bylaws.

5. Any vacancy in the office of a voting director must be filled by the directors.

6. Directors and officers are not responsible for losses unless the losses have been occasioned by the willful misconduct of those directors and officers.

Sec. 70. NRS 701A.110 is hereby amended to read as follows:

701A.110 1. Except as otherwise provided in this section, the ~~Director~~ **Office of Economic Development** 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) ~~Commissioner~~ **Office of Economic Development**;
- (VI) Board of county commissioners; and
- (VII) City manager and city council, if any.



**(c) The abatement is consistent with the State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of section 14 of this act.**

2. As soon as practicable after the Director receives the application and proof required by subsection 1, the ~~Director~~ **Office of Economic Development** shall **, with the assistance of the Director,** 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; **and**
- (c) County treasurer ~~. It and~~
- ~~(d) [Commission on] [Office of 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~~ *Office of Economic Development.*

5. *If a partial abatement terminates pursuant to paragraph (c) of subsection 4, the owner of the property to which the partial abatement applied shall repay to the county treasurer the amount of the exemption that was allowed pursuant to this section before the date of that termination. The owner 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.*

6. *The Office of Economic Development, with the assistance of 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.~~ 7. *The Director shall:*

*(a) Cooperate with the Office of Economic Development in carrying out the provisions of this section and provide such assistance as the Office determines to be necessary for that purpose; and*

**(b) Submit to the Office of Economic Development an annual report, at such a time and containing such information as the Office may require, regarding the partial abatements granted by the Office pursuant to this section.**

**8.** 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. 71. NRS 701A.210 is hereby amended to read as follows:

701A.210 1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on-site; or

(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,

↪ is found by the ~~{Commission on}~~ **Office of** Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the ~~{Commission on}~~ **Office of** Economic Development pursuant to NRS 360.750, the ~~{Commission}~~ **Office** may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS.

2. If a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS is approved by the ~~{Commission on}~~ **Office of** Economic Development pursuant to NRS 360.750 for a business described in subsection 1:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on real property payable by the business each year; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the ~~Commission on~~ *Office of* Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the ~~Commission~~ *Office* granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this State that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.

4. As used in this section, "facility for the generation of electricity from recycled material" means a facility for the generation of electricity that uses recycled material as its primary fuel, including material from:

(a) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;

(b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and

(c) Municipal waste, such as sewage and sludge.

↪ The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.

Sec. 72. NRS 701A.360 is hereby amended to read as follows:

701A.360 1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy, a facility for the generation of electricity from geothermal resources or a facility for the transmission of electricity produced from renewable energy or geothermal resources in this State may apply to the Director for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS.

2. A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to NRS 701A.300 to 701A.390, inclusive.

3. As soon as practicable after the Director receives an application for a partial abatement, the Director shall submit the application to the Commissioner and forward a copy of the application to:

- (a) The Chief of the Budget Division of the Department of Administration;
- (b) The Department of Taxation;
- (c) The board of county commissioners;
- (d) The county assessor;
- (e) The county treasurer; and
- (f) The ~~Commissioner~~ **Office of Economic Development**.

4. With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application.

5. The Commissioner shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in subsection 3 have received a copy of the application.

**Sec. 73. NRS 701A.365 is hereby amended to read as follows:**

701A.365 1. Except as otherwise provided in subsection 2, the ~~Commissioner~~ **Office of Economic Development** shall approve an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, if the **Office, with the assistance of the** Commissioner, makes the following determinations:

(a) The applicant has executed an agreement with the Commissioner which must:

(1) State that the facility will, after the date on which a certificate of eligibility for the abatement is issued pursuant to NRS 701A.370, continue in operation in this State for a period specified by the Commissioner, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

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

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$10,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to NRS 701A.390.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the

Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to NRS 701A.390.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

**(g) The facility is consistent with the State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of section 14 of this act.**

2. The ~~Commissioner~~ **Office of Economic Development** shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to NRS 701A.360 by a facility for the generation of electricity from geothermal resources unless the application is approved pursuant to this subsection. The board of county commissioners of a county must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners must not condition the approval of the application on a requirement that the facility for the generation of electricity from geothermal resources agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility. If the board of county commissioners does not approve or deny the application within 30 days after the board receives the application, the application shall be deemed denied.

3. Notwithstanding the provisions of subsection 1, the ~~Commissioner~~ **Office of Economic Development** may, if the ~~Commissioner~~ **Office** determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 1; or

(b) Add additional requirements that a facility must meet to qualify for a partial abatement.

**4. The Commissioner and the Director shall cooperate with the Office of Economic Development in carrying out the provisions of this section and provide such assistance as the Office determines to be necessary for that purpose.**

**5. The Commissioner shall submit to the Office of Economic Development an annual report, at such a time and containing such information as the Office may require, regarding the partial abatements granted by the Office pursuant to this section.**

~~[Sec. 73.]~~ Sec. 74. NRS 701A.370 is hereby amended to read as follows:

701A.370 1. If the ~~[Commissioner]~~ **Office of Economic Development** approves an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, of:

(a) Property taxes imposed pursuant to chapter 361 of NRS, the partial abatement must:

(1) Be for a duration of the 20 fiscal years immediately following the date of approval of the application;

(2) Be equal to 55 percent of the taxes on real and personal property payable by the facility each year; and

(3) Not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722.

(b) Local sales and use taxes:

(1) The partial abatement must:

(I) Be for the 3 years beginning on the date of approval of the application;

(II) Be equal to that portion of the combined rate of all the local sales and use taxes payable by the facility each year which exceeds 0.25 percent; and

(III) Not apply during any period in which the facility is receiving another abatement or exemption from local sales and use taxes.

(2) The Department of Taxation shall issue to the facility a document certifying the abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of 2.25 percent.

2. Upon approving an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, the ~~[Commissioner]~~ **Office of Economic Development** shall immediately notify the Director of the terms of the abatement and the Director shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and



(e) The ~~{Commission on}~~ ~~{Office of Economic Development}~~  
Commissioner.

**Sec. 75. NRS 701A.375 is hereby amended to read as follows:**

701A.375 1. As soon as practicable after receiving a copy of an application pursuant to NRS 701A.360:

(a) The Chief of the Budget Division of the Department of Administration shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State and forward a copy of the fiscal note to the Director for submission to the Commissioner ~~{H}~~ and the Office of Economic Development; and

(b) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government and to the Director for submission to the Commissioner ~~{H}~~ and the Office of Economic Development.

2. As soon as practicable after receiving a copy of a certificate of eligibility pursuant to NRS 701A.370, the Department of Taxation shall forward a copy of the certificate to each affected local government.

~~{Sec. 74.}~~ Sec. 76. NRS 701A.380 is hereby amended to read as follows:

701A.380 1. A partial abatement approved by the ~~{Commissioner}~~ Office of Economic Development pursuant to NRS 701A.300 to 701A.390, inclusive, terminates upon any determination by the Commissioner that the facility has ceased to meet any eligibility requirements for the abatement.

2. The Commissioner shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the facility has ceased to meet those requirements.

3. The Commissioner shall immediately provide notice of each determination of termination to the Director, and the Director shall immediately provide a copy of the notice to:

(a) The Department of Taxation, which shall immediately notify each affected local government of the determination;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The ~~{Commission on}~~ Office of Economic Development.

**4. A facility whose partial abatement is terminated pursuant to this section shall repay to:**

**(a) The county treasurer the amount of the exemption from property taxes imposed pursuant to chapter 361 of NRS; and**

**(b) The Department of Taxation the amount of the exemption from local sales and use taxes,**

*↪ that was allowed pursuant to this section before the date of that termination. Except as otherwise provided in NRS 360.232 and 360.320, the facility 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.*

Sec. 77. **NRS 701A.385 is hereby amended to read as follows:**

701A.385 Notwithstanding any statutory provision to the contrary, if the ~~Commissioner~~ **Office of Economic Development** approves an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, of:

1. Property taxes imposed pursuant to chapter 361 of NRS, the amount of all the property taxes which are collected from the facility for the period of the abatement must be allocated and distributed in such a manner that:

(a) Forty-five percent of that amount is deposited in the Renewable Energy Fund created by NRS 701A.450; and

(b) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive.

2. Local sales and use taxes, the State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the facility for the period of the abatement in the same manner as if that amount consisted solely of the proceeds of taxes imposed by NRS 374.110 and 374.190.

Sec. 78. **NRS 701A.390 is hereby amended to read as follows:**

701A.390 The Commissioner:

1. Shall adopt regulations:

(a) Prescribing the minimum level of benefits that a facility must provide to its employees if the facility is going to use benefits paid to employees as a basis to qualify for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive;

(b) Prescribing such requirements for an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, as will ensure that all information and other documentation necessary for the Commissioner **and the Office of Economic Development** to make an appropriate determination is filed with the Director;

(c) Requiring each recipient of a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, to file annually with the Director, for submission to the Commissioner, such information and documentation as

may be necessary for the Commissioner to determine whether the recipient is in compliance with any eligibility requirements for the abatement; and

(d) Regarding the capital investment that a facility must make to meet the requirement set forth in paragraph (d) or (e) of subsection 1 of NRS 701A.365; and

2. May adopt such other regulations as the Commissioner determines to be necessary to carry out the provisions of NRS 701A.300 to 701A.390, inclusive.

~~{Sec. 75.}~~ Sec. 79. NRS 704.032 is hereby amended to read as follows:

704.032 The ~~{Commission on}~~ **Office of** Economic Development may participate in proceedings before the Public Utilities Commission of Nevada concerning a public utility in the business of supplying electricity or natural gas to advocate the accommodation of the State Plan for ~~{Industrial Development and Diversification.}~~ **Economic Development developed by the Executive Director of the Office pursuant to subsection 2 of section 14 of this act.** The ~~{Commission on}~~ **Office of** Economic Development may intervene as a matter of right in a proceeding pursuant to NRS 704.736 to 704.754, inclusive, or 704.991.

~~{Sec. 76.}~~ Sec. 80. NRS 704.223 is hereby amended to read as follows:

704.223 1. If a business with a new industrial load has been certified by the ~~{Commission on}~~ **Office of** Economic Development pursuant to NRS 231.139, the Public Utilities Commission of Nevada may authorize a public utility that furnishes electricity for the business to purchase or transmit a portion of the electricity provided to the business to reduce the overall cost of the electricity to the business. The purchases of electricity may be made by the business with the new industrial load, by agreement between the public utility and the business or by the public utility on behalf of the business, and must be made in accordance with such rates, terms and conditions as are established by the Public Utilities Commission of Nevada.

2. If additional facilities are determined by the affected utility to be required as the result of authorization granted pursuant to subsection 1, the facilities must be constructed, owned and operated by the affected utility. The business must agree as a condition to the authorization granted pursuant to subsection 1 to continue its business in operation in Nevada for 30 years. The agreement must require appropriate security for the reimbursement of the utility for the remaining portion of the value of the facilities which has not been depreciated by the utility and will not be mitigated by use of the facilities for other customers in the event that the business, or its successor in interest, does not remain in operation for 30 years.

3. Nothing in this section authorizes the Federal Energy Regulatory Commission to order the purchase or transmittal of electricity in the manner described in subsection 1.

4. All of the rules, regulations and statutes pertaining to the Public Utilities Commission of Nevada and public utilities apply to actions taken pursuant to this section.

5. Any authorization granted by the Public Utilities Commission of Nevada pursuant to this section must include such terms and conditions as the Commission determines are necessary to ensure that the rates or charges assessed to other customers of the public utility do not subsidize the cost of providing service to the business.

**Sec. 81. Section 12 of this act is hereby amended to read as follows:**

Sec. 12. 1. There is hereby created within the Office of the Governor the Office of Economic Development ~~and~~, **consisting of:**

**(a) A Division of Economic Development; and**

**(b) A Division of Motion Pictures.**

2. The Governor shall propose a budget for the Office.

3. Employees of the Office are not in the classified or unclassified service of this State and serve at the pleasure of the Executive Director.

**Sec. 82. Section 14 of this act is hereby amended to read as follows:**

Sec. 14. After considering any pertinent advice and recommendations of the Board, the Executive Director:

1. Shall direct and supervise the administrative and technical activities of the Office.

2. Shall develop and may periodically revise a State Plan for Economic Development, which must include a statement of:

(a) New industries which have the potential to be developed in this State;

(b) The strengths and weaknesses of this State for business incubation;

(c) The competitive advantages and weaknesses of this State;

(d) The manner in which this State can leverage its competitive advantages and address its competitive weaknesses;

(e) A strategy to encourage the creation and expansion of businesses in this State and the relocation of businesses to this State; and

(f) Potential partners for the implementation of the strategy, including, without limitation, the Federal Government, local governments, local and regional organizations for economic development, chambers of commerce, and private businesses, investors and nonprofit entities.

3. Shall develop criteria for the designation of regional development agencies pursuant to subsection 4.

4. Shall, in consultation with local governmental entities in the southern region of this State, the northern region of this State and the rural region of this State, designate as many regional development agencies for each region

as the Executive Director determines to be appropriate to implement the State Plan for Economic Development. The Executive Director may, if he or she determines that such action would aid in the implementation of the State Plan for Economic Development, remove the designation of any regional development agency previously designated pursuant to this section.

5. *In a manner consistent with the laws of this State, may reorganize the programs of economic development in this State to further the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2. If, in the opinion of the Executive Director, changes to the laws of this State are necessary to implement the economic development strategy for this State, the Executive Director must recommend the changes to the Governor and the Legislature.*

6. May apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of *NRS 231.020 to 231.139, inclusive, and* sections 12 to ~~15, inclusive, and 17 to~~ 22, inclusive, of this act.

~~6.~~ 7. May adopt such regulations as may be necessary to carry out the provisions of *NRS 231.020 to 231.139, inclusive, and* sections 12 to ~~15, inclusive, and 17 to~~ 22, inclusive, of this act.

Sec. 83. **Section 15 of this act is hereby amended to read as follows:**

Sec. 15. Under the direction of the Executive Director, the Office ~~(shall):~~ :

1. ~~(Provide)~~ **Shall provide** administrative and technical support to the Board.

2. ~~(Support)~~ **Shall support** the efforts of the Board, the regional development agencies designated by the Executive Director pursuant to subsection 4 of section 14 of this act and the private sector to encourage the creation and expansion of businesses in Nevada and the relocation of businesses to Nevada.

3. ~~(Ensure)~~ **Shall coordinate and oversee all economic development programs in this State to ensure that such programs are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act, including, without limitation:**

**(a) Coordinating the economic development activities of agencies of this State, local governments in this State and local and regional organizations for economic development to avoid duplication of effort or conflicting efforts;**

**(b) Working with local, state and federal authorities to streamline the process for obtaining abatements, financial incentives, grants, loans and all necessary permits and licenses for the creation or expansion of business in Nevada or the relocation of businesses to Nevada; and**

(c) Reviewing, analyzing and making recommendations for the approval or disapproval of applications for abatements, financial incentives, development resources, and grants and loans of money provided by the Office.

4. May:

(a) Participate in any federal programs for economic development that are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of section 14 of this act; and

(b) When practicable and authorized by federal law, act as the agency of this State to administer such federal programs.

5. Shall ensure that each fiscal year the:

(a) The money available from the Office for regional development agencies for administrative and operating purposes during that fiscal year is allocated in an equitable manner to each region of this State in accordance with the opportunities for economic development that are available in each region.

(b) The University of Nevada, Las Vegas, the University of Nevada, Reno, and the Desert Research Institute each receive an equitable share, as practicable, of the money available from the Office for those entities for that fiscal year in accordance with the opportunities for economic development that are available to each of those entities.

Sec. 84. Section 16 of this act is hereby amended to read as follows:

Sec. 16. 1. The Catalyst Fund is hereby created as a special revenue fund in the State Treasury.

2. The Catalyst Fund is a continuing fund without reversion. The interest and income earned on money in the Catalyst Fund, after deducting any applicable charges, must be credited to the Catalyst Fund.

3. All payments of principal and interest on any loan made with money from the Catalyst Fund must be deposited in the State Treasury for credit to the Fund.

4. The ~~{Commission on Economic Development}~~ Executive Director shall administer the Catalyst Fund and may apply for and accept any gift, grant, donation, bequest or other source of money for deposit in the Catalyst Fund.

~~{Sec. 77.}~~ Sec. 85. 1. On or before ~~{August}~~ October 1, 2011, the Advisory Council on Economic Development created by section 8 of this act shall ~~{complete}~~ conduct an analysis and evaluation of the effectiveness of the programs of economic development in this State and the economic strengths and weaknesses of this State.~~{~~

~~2. To conduct the analysis required by subsection 1, the Board shall organize}~~ , by organizing teams, which may include, without limitation:

(a) An oversight team, consisting of the leaders of State Government and the Nevada System of Higher Education selected by the ~~Board,~~ **Advisory Council,** to manage the work of conducting the analysis and evaluation and to compile interim reports and a final report ~~on the analysis and evaluation.~~

(b) A research team to work with the Nevada System of Higher Education and existing organizations for economic development to:

(1) Identify and analyze industry clusters and innovation opportunities in this State; and

(2) Evaluate the best practices of economic development programs nationwide.

(c) An infrastructure planning team to:

(1) Inventory existing infrastructure in this State; and

(2) Identify the improvements to the infrastructure in this State which are needed to aid and encourage the economic development of this State.

(d) A technology commercialization and capital planning team to:

(1) Research best practices for the commercialization of research and technology; and

(2) Engage businesses, entrepreneurs and investors to commercialize research and technology developed in this State.

(e) An economic impact analysis team to develop an investment prospectus for this State based on the work performed by the other teams.

(f) An external research validation team to recommend a consulting firm to be hired by the ~~Board,~~ **Advisory Council.** Within the limits of legislative appropriations ~~and through competitive bidding, the Board,~~ **the Advisory Council** shall retain a qualified, independent consultant to validate the economic assumptions used by the teams and review completed economic analyses.

**2. In establishing the State Plan for Economic Development pursuant to subsection 2 of section 14 of this act, the Executive Director of the Office of Economic Development created pursuant to section 12 of this act shall use the analysis and evaluation conducted pursuant to this section.**

~~{Sec. 78.}~~ Sec. 86. **1. NRS ~~{231.015,}~~ 231.030, 231.040, 231.050, 231.065, 231.067, 231.070, 231.080, 231.090, 231.110 ~~to 231.130,~~ and 231.142 are hereby repealed.**

**2. NRS 231.153, 231.154, 231.155, 231.156, 277.300, 277.305, 277.310, 277.315, 277.320, 277.325, 277.330, 277.335, 277.340, 277.345, 277.350, 277.355, 277.360, 277.365, 277.370, 277.375, 277.380, 277.385 and 277.390 are hereby repealed.**

**Sec. 87. On July 1, 2011, the State Controller shall transfer the unexpended balance, if any, remaining in the Nevada Economic**

**Development Account in the State General Fund to the Catalyst Fund created by section 16 of this act.**

**Sec. 88. The board of directors of each regional development district created pursuant to NRS 277.300 to 277.390, inclusive, before July 1, 2011, shall settle the affairs of and dissolve the district not later than December 31, 2011.**

**Sec. 89. Sections 52.3 to 53.7, inclusive, of this act do not apply to or affect any bonds, notes or other securities issued before July 1, 2012, pursuant to NRS 244A.669 to 244A.763, inclusive, 268.512 to 268.568, inclusive, 349.400 to 349.670, inclusive, or 349.935 to 349.961, inclusive.**

**Sec. 90. 1. Any administrative regulations adopted by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until amended by the officer, agency or other entity to which the responsibility for the adoption of the regulations has been transferred.**

**2. Any contracts or other agreements entered into by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity are binding upon the officer, agency or other entity to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer, agency or other entity to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.**

**3. Any action taken by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remains in effect as if taken by the officer, agency or other entity to which the responsibility for the enforcement of such actions has been transferred.**

~~{Sec. 79.}~~ **Sec. 91. The Legislative Counsel shall:**

**1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.**

**2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to**



the provisions of this act to refer to the appropriate officer, agency or other entity.

**Sec. 92. As soon as practicable after the effective date of this section, each entity that received a grant pursuant to NRS 231.065 or 231.067 on or after July 1, 2009, and before July 1, 2011, shall provide a report to the Commission on Economic Development and the Advisory Council on Economic Development which includes:**

- 1. A detailed accounting for the use of all money received;**
- 2. A description of the results achieved from the expenditures accounted for pursuant to subsection 1; and**
- 3. A statement of the leads on future business growth developed as a direct result of the grant.**

~~{Sec. 80.}~~ **Sec. 93. 1. This section and sections 2 to 8, {77 and 79} inclusive, 23.7, 29.5, 30.3, 30.7, 31.5, 85 and 87 to 92, inclusive,** of this act become effective upon passage and approval.

**2. Sections 1, 9 to 16, inclusive, 18 to 22, inclusive, 23.3, 31.3 and 46 and subsection 2 of section 86 of this act become effective on July 1, 2011.**

**3. Sections {1,} 1.5, 17, {24} 17.5, 23, 24 to 29, inclusive, 30, 31, 31.7 to 45, inclusive, and 47 to {76,} 84, inclusive, and {78} subsection 1 of section 86 of this act become effective on {the date on which the Executive Director of the Office of Economic Development is appointed by the Governor pursuant to section 13 of this act.**

~~3. Sections 2 to 7, inclusive, 9 to 22, inclusive, and 46 of this act become effective on July 1, 2011.~~

~~4. Section 9 of this act expires by limitation on the date on which the Executive Director of the Office of Economic Development is appointed by the Governor pursuant to section 13 of this act.~~

~~5. Section {July 1, 2012.~~

**4. Sections 9 and 46 of this act {expires} expire** by limitation on June 30, 2012.

#### LEADLINES OF REPEALED SECTIONS

~~{231.015 Interagency Committee for Coordinating Tourism and Economic Development.}~~

231.030 Creation; divisions.

231.040 Members: Appointment; qualifications.

231.050 Meetings; quorum; Secretary; removal of members.

**231.065 Powers and duties: Grants to assist projects of economic diversification in certain counties.**

**231.067 Powers and duties: State Plan for Industrial Development and Diversification; promotion of economic interests of State; grants for**

economic development; agency for issuing permits to relocating or expanding businesses.

231.070 Salary of members.

231.080 Executive Director: Qualifications; appointment; restrictions on other employment.

231.090 Executive Director: Powers and duties.

231.110 Employees.

~~231.130 Use of records and assistance of other state agencies.~~

231.142 "Commission" defined.

231.153 Creation; transfer of money to State General Fund.

231.154 Administration; grants for purpose of economic development; exceptions.

231.155 Regulations.

231.156 Biennial report to Director of Legislative Counsel Bureau; required contents of report.

277.300 Legislative findings; purpose; general duties of district.

277.305 Definitions.

277.310 "Board" defined.

277.315 "Development region" and "region" defined.

277.320 "Governmental unit" defined.

277.325 "Regional development district" and "district" defined.

277.330 "Subregional" defined.

277.335 Authority of counties and cities to establish district; petitioning of Governor; contiguity; duties of Governor; ability of other counties and cities to join district.

277.340 Initial governing body; composition of board of directors; bylaws; operating budget; dues; membership.

277.345 Board of directors: Qualifications and duties of chair; election of officers; meetings; staff; executive director; personnel system; independent audits; contracting for services.

277.350 Powers; preparation and submission of comprehensive economic development strategies and other plans; right of counties and cities to conduct local or subregional planning unaffected.

277.355 Additional discretionary powers of district.

277.360 Establishment of nonprofit corporation; powers of nonprofit corporation; authority of district to receive and administer certain housing funds; rights of counties and cities unaffected.

277.365 Reassignment or addition of county to development region; requirement of contiguity; approval or denial of request; appeal to Governor.

277.370 Preparation and contents of annual reports; periodic reports assessing performance of district.

**277.375 Advisory committees.****277.380 Cooperation by state departments and agencies; Governor to develop working agreements.****277.385 Grants and financial assistance: Designation of responsible state agency; distribution of money from State General Fund; gifts, grants and loans; depositories.****277.390 Population of county or city.**

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 572.

Bill read third time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 842.

AN ACT relating to taxation; revising provisions governing the expenditure by police departments of the proceeds of the sales and use tax imposed pursuant to the Clark County Sales and Use Tax Act of 2005; revising certain reporting requirements concerning such expenditures; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Clark County Sales and Use Tax Act of 2005 authorizes the Board of County Commissioners of Clark County to enact an ordinance imposing a local sales and use tax to employ and equip additional police officers in certain police departments in Clark County. (Sections 9-10 of the Act) A police department is prohibited from spending the proceeds of the tax unless the expenditure has been approved by a designated body and only if the use will not replace or supplant existing funding for the police department. (Section 13 of the Act) **Section 1** of this bill revises the requirements governing the approval and expenditure of the proceeds of the tax ~~to~~ **to allow, under certain circumstances, for the approval and expenditure of such proceeds during fiscal years in which the designated body projects a decrease in its receipt of certain other tax revenue. Section 1 also establishes a procedure pursuant to which, under certain circumstances, the County Treasurer may approve the use by a police department of the proceeds of the tax that have been allocated to another police department.**

The Act also requires that certain reports concerning expenditures pursuant to the Act be submitted to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or to the Legislative Commission if the Legislature is not in session. (Section 13.5 of the Act) **Section 2** of this bill requires that the reports be submitted instead to the Department of Taxation.

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

**Section 1.** Section 13 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 915, is hereby amended to read as follows:

Sec. 13. 1. A police department shall not expend proceeds received from any sales and use tax imposed pursuant to this act unless the expenditure has been approved by the body designated pursuant to this section for the approval of expenditures of that police department. The body designated pursuant to this section must approve the expenditure of the proceeds by the police department if it determines that:

(a) The proposed use of the money conforms to all provisions of this act; and

(b) The proposed use will not replace or supplant existing funding for the police department.

2. The body designated to approve an expenditure for:

(a) The Boulder City Police Department is the City Council of the City of Boulder City;

(b) The Henderson Police Department is the City Council of the City of Henderson;

(c) The Las Vegas Metropolitan Police Department is the Metropolitan Police Committee on Fiscal Affairs;

(d) The Mesquite Police Department is the City Council of the City of Mesquite; and

(e) The North Las Vegas Police Department is the City Council of the City of North Las Vegas.

3. In determining ~~whether~~ **that** a proposed use meets the requirement set forth in paragraph (b) of subsection 1, a body designated pursuant to ~~paragraph (a), (b), (d) or (e) of~~ subsection 2 ~~shall determine whether the~~ **must find that either:**

**(a) The** amount approved for expenditure by the body for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is equal to or greater than the amount approved for expenditure in the immediately preceding fiscal year for the support of the police department ~~if:~~

~~4. In determining whether a proposed use meets the requirements set forth in paragraph (b) of subsection 1, a body designated pursuant to paragraph (c) of subsection 2 shall determine whether:~~

~~(a) The amount approved for expenditure by the City of Las Vegas for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act or any money collected pursuant to~~

~~an additional ad valorem tax approved by the voters pursuant to NRS 280.265, is equal to or greater than the amount determined by multiplying the sum of the amounts approved for expenditure by both the City of Las Vegas and Clark County for the support of the police department during the immediately preceding fiscal year by the percentage of the expense of the operating and maintaining the police department apportioned to the City of Las Vegas for the fiscal year pursuant to NRS 280.201; and~~

~~(b) The amount approved for expenditure by the County for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act or any money collected pursuant to an additional ad valorem tax approved by the voters pursuant to NRS 280.265, is equal to or greater than the amount determined by multiplying the sum of the amounts approved for expenditure by both the City of Las Vegas and the County for the support of the police department during the immediately preceding fiscal year by the percentage of the expense of operating and maintaining the police department apportioned to the County for the fiscal year pursuant to NRS 280.210.} ; or~~

*(b) The amount approved for expenditure by the body for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is less than the amount approved for expenditure in the immediately preceding fiscal year for the support of the police department and the body has experienced a decrease in its combined revenue from consolidated taxes and property taxes of more than 2 percent from Fiscal Year 2009-2010.*

*4. If a body designated pursuant to subsection 2 makes a finding pursuant to subsection 3, the body shall adopt a resolution setting forth the finding and the reasons therefor.*

*5. If a body designated pursuant to subsection 2 does not make a finding pursuant to subsection 3 for a fiscal year ~~for~~ on or before July 1 of that fiscal year, the ~~city or county treasurer, as appropriate,~~ body shall retain the proceeds received for that fiscal year from any sales and use tax imposed pursuant to this act ~~and shall not permit the expenditure of those proceeds for any purpose during that fiscal year.~~ in the special revenue fund created by the body pursuant to section 17 of this act for use pursuant to this section. Any other body designated pursuant to subsection 2 which makes a finding pursuant to subsection 3 for that fiscal year may apply to the County Treasurer requesting approval for the use by the police department for which the other body approves expenditures of any portion of those proceeds in accordance with the provisions of this section.*

*6. The County Treasurer, upon receiving a request pursuant to subsection 5 and proper documentation of compliance with the provisions of this section, shall provide written notice to the designated body which*

failed to make a finding pursuant to subsection 3 that it is required to transfer from the special revenue fund created by the body pursuant to section 17 of this act to the County Treasurer such amount of the proceeds received for that fiscal year from any sales and use tax imposed pursuant to this act as approved by the County Treasurer for use by the designated body that submitted the request.

7. Notwithstanding the provisions of subsection 3 of section 17 of this act, a designated body that receives written notice from the County Treasurer pursuant to subsection 6 shall transfer all available required money to the County Treasurer as soon as practicable following its receipt of any portion of the proceeds. Upon receipt of the money, the County Treasurer shall transfer the money to the designated body that submitted the request, which shall deposit the money in the special revenue fund created by that designated body pursuant to section 17 of this act.

**Sec. 2.** Section 13.5 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, as added by chapter 545, Statutes of Nevada 2007, at page 3422, is hereby amended to read as follows:

Sec. 13.5. 1. Any governing body that has approved expenditures pursuant to section 13 of this act shall submit to the ~~{Director of the Legislative Counsel Bureau for transmittal to the members of the Legislature, or the Legislative Commission when the Legislature is not in regular session,}~~ **Department** the periodic reports required pursuant to this section and such other information relating to the provisions of this act as may be requested by the ~~{Director of the Legislative Counsel Bureau.}~~ **Department.**

2. The reports required pursuant to this section must be submitted:

(a) On or before:

(1) February 15 for the 3-month period ending on the immediately preceding December 31;

(2) May 15 for the 3-month period ending on the immediately preceding March 31;

(3) August 15 for the 3-month period ending on the immediately preceding June 30; and

(4) November 15 for the 3-month period ending on the immediately preceding September 30; and

(b) On or before August 15 for the 12-month period ending on the immediately preceding June 30.

3. Each report must be submitted on a form provided by the ~~{Director of the Legislative Counsel Bureau}~~ **Department** and include, with respect to the period covered by the report:

(a) The total proceeds received by the respective police department from the sales and use tax imposed pursuant to this act;

(b) A detailed description of the use of the proceeds, including, without limitation:

(1) The total expenditures made by the respective police department from the sales and use tax imposed pursuant to this act;

(2) The total number of police officers hired by the police department and the number of those officers that are filling authorized, funded positions for new officers; and

(3) A detailed analysis of the manner in which each expenditure:

(I) Conforms to all provisions of this act; and

(II) Does not replace or supplant funding which existed before October 1, 2005, for the police department; and

(c) Any other information required to complete the form for the report.

4. The ~~Legislative Commission~~ **Department** may review and investigate the reports submitted pursuant to this section and the expenditure of any proceeds pursuant to section 13 of this act.

**Sec. 3.** This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of Amendment No. 842 to Assembly Bill No. 572.

Amendment adopted.

The following amendment was proposed by Assemblywoman Kirkpatrick: Amendment No. 843.

AN ACT relating to taxation; revising provisions governing the expenditure by police departments of the proceeds of the sales and use tax imposed pursuant to the Clark County Sales and Use Tax Act of 2005; revising certain reporting requirements concerning such expenditures; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Clark County Sales and Use Tax Act of 2005 authorizes the Board of County Commissioners of Clark County to enact an ordinance imposing a local sales and use tax to employ and equip additional police officers in certain police departments in Clark County. (Sections 9-10 of the Act) A police department is prohibited from spending the proceeds of the tax unless the expenditure has been approved by a designated body and only if the use will not replace or supplant existing funding for the police department. (Section 13 of the Act) **Section 1** of this bill revises the requirements governing the approval and expenditure of the proceeds of the tax ~~to~~ **allow, under certain circumstances, for the approval and expenditure of such proceeds during fiscal years in which the designated body projects a decrease in its receipt of certain other tax revenue.**

The Act also requires that certain reports concerning expenditures pursuant to the Act be submitted to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or to the Legislative Commission if the

Legislature is not in session. (Section 13.5 of the Act) **Section 2** of this bill requires that the reports be submitted instead to the Department of Taxation.

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

**Section 1.** Section 13 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 915, is hereby amended to read as follows:

Sec. 13. 1. A police department shall not expend proceeds received from any sales and use tax imposed pursuant to this act unless the expenditure has been approved by the body designated pursuant to this section for the approval of expenditures of that police department. The body designated pursuant to this section must approve the expenditure of the proceeds by the police department if it determines that:

(a) The proposed use of the money conforms to all provisions of this act; and

(b) The proposed use will not replace or supplant existing funding for the police department.

2. The body designated to approve an expenditure for:

(a) The Boulder City Police Department is the City Council of the City of Boulder City;

(b) The Henderson Police Department is the City Council of the City of Henderson;

(c) The Las Vegas Metropolitan Police Department is the Metropolitan Police Committee on Fiscal Affairs;

(d) The Mesquite Police Department is the City Council of the City of Mesquite; and

(e) The North Las Vegas Police Department is the City Council of the City of North Las Vegas.

3. In determining ~~whether~~ **that** a proposed use meets the requirement set forth in paragraph (b) of subsection 1, a body designated pursuant to ~~paragraph (a), (b), (d) or (e) of~~ subsection 2 ~~shall determine whether the~~ **must find that either:**

**(a) The** amount approved for expenditure by the body for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is equal to or greater than the amount approved for expenditure in the immediately preceding fiscal year for the support of the police department ~~if:~~

~~4. In determining whether a proposed use meets the requirements set forth in paragraph (b) of subsection 1, a body designated pursuant to paragraph (c) of subsection 2 shall determine whether:~~



(a) ~~The amount approved for expenditure by the City of Las Vegas for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act or any money collected pursuant to an additional ad valorem tax approved by the voters pursuant to NRS 280.265, is equal to or greater than the amount determined by multiplying the sum of the amounts approved for expenditure by both the City of Las Vegas and Clark County for the support of the police department during the immediately preceding fiscal year by the percentage of the expense of the operating and maintaining the police department apportioned to the City of Las Vegas for the fiscal year pursuant to NRS 280.201; and~~

~~(b) The amount approved for expenditure by the County for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act or any money collected pursuant to an additional ad valorem tax approved by the voters pursuant to NRS 280.265, is equal to or greater than the amount determined by multiplying the sum of the amounts approved for expenditure by both the City of Las Vegas and the County for the support of the police department during the immediately preceding fiscal year by the percentage of the expense of operating and maintaining the police department apportioned to the County for the fiscal year pursuant to NRS 280.210.} ; or~~

~~(b) The amount approved for expenditure by the body for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is less than the amount approved for expenditure in the immediately preceding fiscal year for the support of the police department and the body ~~has experienced~~ projects a decrease in its ~~combined~~ receipt of revenue in that fiscal year from consolidated taxes and property taxes of more than 2 percent from ~~Fiscal Year 2009-2010.~~ its base fiscal year.~~

4. ~~If a body designated pursuant to subsection 2 makes a finding pursuant to subsection 3, the body shall adopt a resolution setting forth the finding and the reasons therefor. If the finding is made pursuant to paragraph (b) of subsection 3, the finding must include, without limitation, all facts supporting the projection of a decrease in revenue.~~

5. ~~If a body designated pursuant to subsection 2 does not make a finding pursuant to subsection 3 for a fiscal year, the ~~city or county treasurer, as appropriate,~~ body shall retain the proceeds received for that fiscal year from any sales and use tax imposed pursuant to this act ~~and shall not permit the expenditure of those proceeds for any purpose during that fiscal year.~~ in the special revenue fund created by the body pursuant to section 17 of this act for use pursuant to this section.~~

6. As used in this section, "base fiscal year" means, with respect to a body designated pursuant to subsection 2, Fiscal Year 2009-2010, except that:

(a) If, in any subsequent fiscal year, the amount approved for expenditure by the body for that subsequent fiscal year for the support of the police department, not including any money received or expended pursuant to this act, exceeds by more than 2 percent the amount approved for expenditure in Fiscal Year 2009-2010, the base fiscal year for that body becomes the most recent of such subsequent fiscal years.

(b) If the base fiscal year is revised pursuant to paragraph (a) and, in any subsequent fiscal year, the amount approved for expenditure by the body for that subsequent fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is equal to or less than the amount approved for expenditure in Fiscal Year 2009-2010, the base fiscal year for that body becomes Fiscal Year 2009-2010 but is subject to subsequent revision pursuant to paragraph (a).

**Sec. 2.** Section 13.5 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, as added by chapter 545, Statutes of Nevada 2007, at page 3422, is hereby amended to read as follows:

Sec. 13.5. 1. Any governing body that has approved expenditures pursuant to section 13 of this act shall submit to the ~~{Director of the Legislative Counsel Bureau for transmittal to the members of the Legislature, or the Legislative Commission when the Legislature is not in regular session,}~~ **Department** the periodic reports required pursuant to this section and such other information relating to the provisions of this act as may be requested by the ~~{Director of the Legislative Counsel Bureau,}~~ **Department**.

2. The reports required pursuant to this section must be submitted:

(a) On or before:

(1) February 15 for the 3-month period ending on the immediately preceding December 31;

(2) May 15 for the 3-month period ending on the immediately preceding March 31;

(3) August 15 for the 3-month period ending on the immediately preceding June 30; and

(4) November 15 for the 3-month period ending on the immediately preceding September 30; and

(b) On or before August 15 for the 12-month period ending on the immediately preceding June 30.

3. Each report must be submitted on a form provided by the ~~{Director of the Legislative Counsel Bureau}~~ **Department** and include, with respect to the period covered by the report:

(a) The total proceeds received by the respective police department from the sales and use tax imposed pursuant to this act;

(b) A detailed description of the use of the proceeds, including, without limitation:

(1) The total expenditures made by the respective police department from the sales and use tax imposed pursuant to this act;

(2) The total number of police officers hired by the police department and the number of those officers that are filling authorized, funded positions for new officers; and

(3) A detailed analysis of the manner in which each expenditure:

(I) Conforms to all provisions of this act; and

(II) Does not replace or supplant funding which existed before October 1, 2005, for the police department; and

(c) Any other information required to complete the form for the report.

4. The ~~Legislative Commission~~ **Department** may review and investigate the reports submitted pursuant to this section and the expenditure of any proceeds pursuant to section 13 of this act.

**Sec. 3.** This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of Amendment No. 843 to Assembly Bill No. 572.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 249.

Bill read third time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 838.

AN ACT relating to the taxation of property; revising the provisions governing the administration of certain exemptions from taxation, the determination of the taxable value of the community units of a common-interest community, the conversion of mobile or manufactured homes from real to personal property, the issuance of certain notices by the county assessor and county treasurer, the payment of taxes on personal property in installments, and the determination of when an overpayment of taxes on personal property will not be refunded or a deficiency in the payment of such taxes will be exempted from collection; postponing the prospective expiration of certain provisions for the funding of accounts for the acquisition and improvement of technology in the offices of county assessors and revising the authorized uses of such accounts; repealing certain requirements relating to the minimum valuation of certain land; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides various exemptions from property taxes for surviving spouses, persons who are blind and veterans, if the persons claiming the exemptions are bona fide residents of this State, and requires the county assessors to mail annually to each person who claims such an exemption a form for the renewal of the exemption. (NRS 361.080, 361.085, 361.090, 361.091) **Section 1** of this bill clarifies that these tax exemptions do not apply to a person who holds an identification card indicating that the person is only a seasonal resident of this State, unless the person has actually resided in Nevada for at least 6 months. **Sections 2-5** of this bill authorize the county assessors to provide, upon request, the forms for renewal by electronic means and to authorize the return of those forms by electronic means.

Under existing law, the taxable value of the common elements of a common-interest community must be allocated on an equal basis to each of the community units of that common-interest community. (NRS 361.233) **Section 6** of this bill instead requires, under certain conditions, the allocation of that taxable value to the community units in accordance with a formula for allocation set forth in the declaration creating the common-interest community or, if there is no such declaration, in the recorded deeds for the community units.

Under existing law, a mobile or manufactured home may not be converted from real to personal property and removed from the real property to which it is affixed unless the county assessor certifies that the current taxes on that home and real property have been paid. (NRS 361.2445) **Section 7** of this bill instead requires this certification from the county tax receiver.

**Existing law requires each board of county commissioners to pass a resolution during each fiscal year which directs the county assessor to prepare a secured tax roll of taxable property in the county. The resolution must further direct the county assessor to mail a copy of the secured tax roll to each taxpayer in the county and publish the secured tax roll in a newspaper of general circulation in the county. Existing law also requires the county assessor to issue certain notices indicating that the secured tax roll is complete and available for inspection. (NRS 361.300) Section 9.5 of this bill requires the county assessor to, pursuant to a resolution adopted by the board of county commissioners, additionally post the secured tax roll in certain public areas, post the secured tax roll at the office of the county assessor and publish the secured tax roll on an Internet website maintained by the county assessor or the county. In addition, section 9.5 requires that notices to the effect that the secured tax roll is complete and open for inspection also indicate the locations at which the secured tax roll is available for inspection.**

**Existing law requires a county tax receiver to publish certain notices of delinquent taxes in a newspaper of general circulation in the county or, if no such newspaper exists, in at least five conspicuous places in the county. (NRS 361.565) Section 11.5 of this bill requires the county tax receiver to additionally publish such notices of delinquency on an Internet website maintained by the county treasurer or the county.**

Existing law authorizes a taxpayer, upon request, to pay the personal property taxes imposed on the property of a business in installments if the total taxes exceed \$10,000 and certain other conditions are met. (NRS 361.483) **Section 10** of this bill revises this authorization to include the taxes imposed on personal property which is not the property of a business, to require the total amount of taxes to exceed \$5,000 and to allow the installment payments only if the pertinent tax bill is issued on or before September 15.

Under existing law, an overpayment of personal property taxes in an amount which is less than the average cost of collecting taxes in this State must be paid into the county general fund unless the taxpayer requests a refund within 6 months, and a deficiency in the payment of personal property taxes must be exempted from collection efforts if the deficiency is less than that average cost of collecting taxes. (NRS 361.485) **Section 11** of this bill requires, when calculating the amount paid to determine the existence and amount of such an overpayment or deficiency, the inclusion of the amount of any applicable penalties paid and the amount of any applicable partial abatements of taxes.

Existing law provides various exemptions from the governmental services taxes otherwise due on vehicles of surviving spouses, persons who are blind and veterans and requires the county assessors to mail annually to each person who claims such an exemption a form for the renewal of the exemption. (NRS 371.101, 371.102, 371.103, 371.104) **Sections 12-15** of this bill authorize the county assessors to provide, upon request, the forms for renewal by electronic means.

Under existing law, 2 percent of the property taxes collected for each county on personal property and the net proceeds of mines must be deposited into an account for the acquisition and improvement of technology in the office of the county assessor. (NRS 361.530, 362.170) **Section 16** of this bill provides for the continuation of this funding during the next biennium by postponing its prospective expiration until June 30, 2013. **Section 15.5** of this bill revises the authorized uses of the money in such an account.

Existing law requires persons who desire to claim a property tax exemption for personal property which is in transit through this State to make their claims in the form and manner prescribed by the regulations of the Department of Taxation. (NRS 361.170) Existing law also requires county

assessors to assess all patented land and land held under a state land contract at a minimum rate of \$1.25 per acre and requires county assessors to pay the difference between that amount and the amount of any lower assessments of that land. (NRS 361.230) **Section 17** of this bill repeals these requirements.

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

**Section 1.** NRS 361.015 is hereby amended to read as follows:

361.015 “Bona fide resident” means a person who ~~has~~:

~~1. Established~~ :

1. ***Has established*** a residence in the State of Nevada; and

2. ~~{Actually}~~ ***Has***:

(a) ***Actually*** resided in this state for at least 6 months ; or ~~has a~~

(b) ***A*** valid driver’s license or identification card issued by the Department of Motor Vehicles of this state ~~{ }~~ , ***other than such an identification card which indicates that the person is a seasonal resident.***

**Sec. 2.** NRS 361.080 is hereby amended to read as follows:

361.080 1. The property of surviving spouses, not to exceed the amount of \$1,000 assessed valuation, is exempt from taxation, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State to the same family.

2. For the purpose of this section, property in which the surviving spouse has any interest shall be deemed the property of the surviving spouse.

3. The person claiming such an exemption must file with the county assessor an affidavit declaring that the person is a bona fide resident of this State and that the exemption has been claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.***

4. A surviving spouse is not entitled to the exemption provided by this section in any fiscal year beginning after any remarriage, even if the remarriage is later annulled.

5. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or

false proof, the person is allowed a tax exemption to which the person is not entitled, the person is guilty of a gross misdemeanor.

6. Beginning with the 2005-2006 Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July 2003 to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

**Sec. 3.** NRS 361.085 is hereby amended to read as follows:

361.085 1. The property of each person who is blind, not to exceed the amount of \$3,000 of assessed valuation, is exempt from taxation, including community property to the extent only of the interest therein of the person who is blind, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State on account of the same person.

2. The person claiming such an exemption must file with the county assessor an affidavit declaring that the person is a bona fide resident of the State of Nevada who meets all the other requirements for the exemption and that the exemption is not claimed in any other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , *except as otherwise provided in this subsection*, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. *If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.*

3. Upon first claiming the exemption in a county the claimant shall furnish to the assessor a certificate of a licensed physician setting forth that the physician has examined the claimant and has found him or her to be a person who is blind.

4. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which the person is not entitled, the person is guilty of a gross misdemeanor.

5. Beginning with the 2005-2006 Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July 2003 to the July preceding the

fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

6. As used in this section, "person who is blind" includes any person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20°.

**Sec. 4.** NRS 361.090 is hereby amended to read as follows:

361.090 1. The property, to the extent of \$2,000 assessed valuation, of any actual bona fide resident of the State of Nevada who:

(a) Has served a minimum of 90 continuous days on active duty, who was assigned to active duty at some time between April 21, 1898, and June 15, 1903, or between April 6, 1917, and November 11, 1918, or between December 7, 1941, and December 31, 1946, or between June 25, 1950, and May 7, 1975, or between September 26, 1982, and December 1, 1987, or between October 23, 1983, and November 21, 1983, or between December 20, 1989, and January 31, 1990, or between August 2, 1990, and April 11, 1991, or between December 5, 1992, and March 31, 1994, or between November 20, 1995, and December 20, 1996;

(b) Has served on active duty in connection with carrying out the authorization granted to the President of the United States in Public Law 102-1; or

(c) Has served on active duty in connection with a campaign or expedition for service in which a medal has been authorized by the Government of the United States, regardless of the number of days served on active duty,

➡ and who received, upon severance from service, an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States, or who, having so served, is still serving in the Armed Forces of the United States, is exempt from taxation.

2. For the purpose of this section, the first \$2,000 assessed valuation of property in which an applicant has any interest shall be deemed the property of the applicant.

3. The exemption may be allowed only to a claimant who files an affidavit with his or her claim for exemption on real property pursuant to NRS 361.155. The affidavit may be filed at any time by a person claiming exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county in this State. After the filing of the original affidavit, the county



assessor shall , *except as otherwise provided in this subsection*, mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➔ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. *If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.*

5. Persons in actual military service are exempt during the period of such service from filing the annual forms for renewal of the exemption, and the county assessors shall continue to grant the exemption to such persons on the basis of the original affidavits filed. In the case of any person who has entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed in his or her behalf during the period of such service by any person having knowledge of the facts.

6. Before allowing any veteran's exemption pursuant to the provisions of this chapter, the county assessor shall require proof of status of the veteran, and for that purpose shall require production of an honorable discharge or certificate of satisfactory service or a certified copy thereof, or such other proof of status as may be necessary.

7. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which the person is not entitled, the person is guilty of a gross misdemeanor.

8. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July 2003 to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

**Sec. 5.** NRS 361.091 is hereby amended to read as follows:

361.091 1. A bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or his or her surviving spouse, is entitled to an exemption.

2. The amount of exemption is based on the total percentage of permanent service-connected disability. The maximum allowable exemption

for total permanent disability is the first \$20,000 assessed valuation. A person with a permanent service-connected disability of:

(a) Eighty to 99 percent, inclusive, is entitled to an exemption of \$15,000 assessed value.

(b) Sixty to 79 percent, inclusive, is entitled to an exemption of \$10,000 assessed value.

➔ For the purposes of this section, any property in which an applicant has any interest is deemed to be the property of the applicant.

3. The exemption may be allowed only to a claimant who has filed an affidavit with his or her claim for exemption on real property pursuant to NRS 361.155. The affidavit may be made at any time by a person claiming an exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and be filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada, that the affiant meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county within this State. After the filing of the original affidavit, the county assessor shall , *except as otherwise provided in this subsection*, mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➔ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. *If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.*

5. Before allowing any exemption pursuant to the provisions of this section, the county assessor shall require proof of the applicant's status, and for that purpose shall require the applicant to produce an original or certified copy of:

(a) An honorable discharge or other document of honorable separation from the Armed Forces of the United States which indicates the total percentage of his or her permanent service-connected disability;

(b) A certificate of satisfactory service which indicates the total percentage of his or her permanent service-connected disability; or

(c) A certificate from the Department of Veterans Affairs or any other military document which shows that he or she has incurred a permanent service-connected disability and which indicates the total percentage of that

disability, together with a certificate of honorable discharge or satisfactory service.

6. A surviving spouse claiming an exemption pursuant to this section must file with the county assessor an affidavit declaring that:

(a) The surviving spouse was married to and living with the veteran who incurred a permanent service-connected disability for the 5 years preceding his or her death;

(b) The veteran was eligible for the exemption at the time of his or her death or would have been eligible if the veteran had been a resident of the State of Nevada;

(c) The surviving spouse has not remarried; and

(d) The surviving spouse is a bona fide resident of the State of Nevada.

➡ The affidavit required by this subsection is in addition to the certification required pursuant to subsections 4 and 5. After the filing of the original affidavit required by this subsection, the county assessor shall , *except as otherwise provided in this subsection*, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. *If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.*

7. If a veteran or the surviving spouse of a veteran submits, as proof of disability, documentation that indicates a percentage of permanent service-connected disability for more than one permanent service-connected disability, the amount of the exemption must be based on the total of those combined percentages, not to exceed 100 percent.

8. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 361.090.

9. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which the person is not entitled, the person is guilty of a gross misdemeanor.

10. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsection 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July 2003 to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

**Sec. 6.** NRS 361.233 is hereby amended to read as follows:

361.233 1. Notwithstanding any other provision of law:

(a) Any ad valorem taxes or special assessments assessed upon any real property within a common-interest community:

(1) Must be assessed upon the community units and not upon the common-interest community as a whole; and

(2) Must not be assessed upon any common elements of the common-interest community.

(b) ~~The~~ ***Except as otherwise provided in subsection 2, the*** taxable value of each parcel:

(1) Composed solely of a community unit must consist of:

(I) The taxable value of that community unit; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community; or

(2) Composed of a community unit and any portion of the common elements of the common-interest community must consist of:

(I) The taxable value of that community unit only; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community.

2. ***If the declaration for a common-interest community or, in the absence of such a declaration, the recorded deeds for the community units of a common-interest community:***

(a) ***Provide for the allocation to the community units of, except for any minor variations because of rounding, all the interests in the common elements of the common-interest community; or***

(b) ***Do not provide for the allocation described in paragraph (a) but provide for the allocation to the community units of, except for any minor variations because of rounding, all the liabilities for the common expenses of the common-interest community,***

***↪ and the formula for allocation provided in the declaration or deeds differs from the formula for allocation set forth in sub-subparagraph (II) of subparagraph (1) of paragraph (b) of subsection 1 and sub-subparagraph (II) of subparagraph (2) of paragraph (b) of subsection 1, those sub-subparagraphs do not apply to the common-interest community, and the taxable value of the common elements of the common-interest community must be allocated to the community units in accordance with the formula for allocation provided in the declaration or deeds.***

3. The Nevada Tax Commission shall adopt such regulations as it determines to be appropriate to ensure that this section is carried out in a uniform and equal manner that does not result in the double taxation of any common elements of a common-interest community.

~~{3-}~~ 4. For the purposes of this section:

(a) “Ad valorem tax” means an ad valorem tax levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

(b) “Common elements” means the physical portion of a common-interest community, including, without limitation, any landscaping, swimming pools, fitness centers, community centers, maintenance and service areas, parking areas, hallways, elevators and mechanical rooms, which is:

(1) Intended for the general benefit of and potential use by all the owners of the community units and their invitees; and

(2) Owned:

(I) By the community association;

(II) By any person on behalf or for the benefit of the owners of the community units; or

(III) Jointly by the owners of the community units.

(c) “Common-interest community” means real property with respect to which a person, by virtue of his or her ownership of a community unit, is obligated to pay for any real property other than that unit. The term includes a common-interest community governed by the provisions of chapter 116 of NRS, a condominium hotel governed by the provisions of chapter 116B of NRS, a condominium project governed by the provisions of chapter 117 of NRS and any time-share project, planned unit development or other real property which is organized as a common-interest community in this State.

(d) “Community association” means an association whose membership:

(1) Consists exclusively of the owners of the community units or their elected or appointed representatives; and

(2) Is a required condition of the ownership of a community unit.

(e) “Community unit” means a physical portion of a common-interest community, other than the common elements, which is:

(1) Designated for separate ownership or occupancy; and

(2) Intended for:

(I) Residential use by the owner of that unit and his or her invitees; or

(II) Commercial use by the owner of that unit for the generation of revenue from any persons other than the owners of community units in that common-interest community and their invitees.

(f) ***“Declaration” means any instrument, however denominated, that creates a common-interest community, including any amendment to an instrument.***

(g) “Special assessment” means a special assessment levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

Sec. 7. NRS 361.2445 is hereby amended to read as follows:

361.2445 1. A mobile or manufactured home which has been converted to real property pursuant to NRS 361.244 may not be removed from the real property to which it is affixed unless, at least 30 days before removing the mobile or manufactured home:

(a) The owner:

(1) Files with the Division an affidavit stating that the sole purpose for converting the mobile or manufactured home from real to personal property is to effect a transfer of the title to the mobile or manufactured home;

(2) Files with the Division the affidavit of consent to the removal of the mobile or manufactured home of each person who holds any legal interest in the real property to which the mobile or manufactured home is affixed; and

(3) Gives written notice to the county assessor of the county in which the real property is situated; and

(b) The county ~~assessor~~ **tax receiver** certifies in writing that all taxes for the fiscal year on the mobile or manufactured home and the real property to which the mobile or manufactured home is affixed have been paid.

2. The county assessor shall not remove a mobile or manufactured home from the tax rolls until:

(a) The county assessor has received verification that there is no security interest in the mobile or manufactured home or the holders of security interests have agreed in writing to the conversion of the mobile or manufactured home to personal property; and

(b) An affidavit of conversion of the mobile or manufactured home from real to personal property has been recorded in the county recorder's office of the county in which the real property to which the mobile or manufactured home was affixed is situated.

3. A mobile or manufactured home which is physically removed from real property pursuant to this section shall be deemed to be personal property immediately upon its removal.

4. The Department shall adopt:

(a) Such regulations as are necessary to carry out the provisions of this section; and

(b) A standard form for the affidavits required by this section.

5. Before the owner of a mobile or manufactured home that has been converted to personal property pursuant to this section may transfer ownership of the mobile or manufactured home, he or she must obtain a certificate of ownership from the Division.

6. For the purposes of this section, the removal of a mobile or manufactured home from real property includes the detachment of the mobile or manufactured home from its foundation, other than temporarily for the purpose of making repairs or improvements to the mobile or manufactured home or the foundation.

7. An owner who physically removes a mobile or manufactured home from real property in violation of this section is liable for all legal costs and fees, plus the actual expenses, incurred by a person who holds any interest in the real property to restore the real property to its former condition. Any judgment obtained pursuant to this section may be recorded as a lien upon the mobile or manufactured home so removed.

8. As used in this section:

(a) "Division" means the Manufactured Housing Division of the Department of Business and Industry.

(b) "Owner" means any person who holds an interest in the mobile or manufactured home or the real property to which the mobile or manufactured home is affixed evidenced by a conveyance or other instrument which transfers that interest to him or her and is recorded in the office of the county recorder of the county in which the mobile or manufactured home and real property are situated, but does not include the owner or holder of a right-of-way, easement or subsurface property right appurtenant to the real property.

**Sec. 8.** (Deleted by amendment.)

**Sec. 9.** (Deleted by amendment.)

**Sec. 9.5. NRS 361.300 is hereby amended to read as follows:**

361.300 1. On or before January 1 of each year, the county assessor shall transmit to the county clerk, post at the front door of the courthouse and publish in a newspaper published in the county a notice to the effect that the secured tax roll is completed and open for inspection by interested persons of the county. **A notice issued pursuant to this subsection must include a statement that the secured tax roll is available for inspection as specified in paragraphs (b), (c), (d) and (e) of subsection 3. The statement published in the newspaper must be displayed in the format used for advertisements and printed in at least 10-point bold type or font.**

2. If the county assessor fails to complete the assessment roll in the manner and at the time specified in this section, the board of county commissioners shall not allow the county assessor a salary or other compensation for any day after January 1 during which the roll is not completed, unless excused by the board of county commissioners.

3. Except as otherwise provided in subsection 4, each board of county commissioners shall by resolution, before December 1 of any fiscal year in which assessment is made, require the county assessor to prepare a list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes. ~~and~~ **A resolution adopted pursuant to this subsection must also** direct the county assessor ~~to~~

~~(a) To~~ **to** cause such list and valuations to be ~~printed~~ **:**

**(a) Printed** and delivered by the county assessor or mailed by him or her on or before January 1 of the fiscal year in which assessment is made to each taxpayer in the county; ~~or~~

(b) ~~[To cause such list and valuations to be published]~~ **Published** once on or before January 1 of the fiscal year in which assessment is made in a newspaper of general circulation in the county; ~~or~~

~~or, in addition to complying with paragraph (a) or (b), the list and valuations may also be posted];~~

**(c) Posted** in a public area of the public libraries and branch libraries located in the county; ~~or, in a public area of the county courthouse and the county office building in which the county assessor's office is located,];~~

**(d) Posted at the office of the county assessor;** and

**(e) Published on ~~an~~ an Internet website ~~for other Internet site that is operated or administered by or on behalf of the county or~~ that is maintained by the county assessor. ~~or, if the county assessor does not maintain an Internet website, on an Internet website that is maintained by the county.~~**

4. A board of county commissioners may, in the resolution required by subsection 3, authorize the county assessor not to deliver or mail the list, as provided in paragraph (a) of subsection 3, to taxpayers whose property is assessed at \$1,000 or less and direct the county assessor to mail to each such taxpayer a statement of the amount of his or her assessment. Failure by a taxpayer to receive such a mailed statement does not invalidate any assessment.

5. The several boards of county commissioners in the State may allow the bill contracted with their approval by the county assessor under this section on a claim to be allowed and paid as are other claims against the county.

6. Whenever:

(a) Any property on the secured tax roll is appraised or reappraised pursuant to NRS 361.260, the county assessor shall, on or before December 18 of the fiscal year in which the appraisal or reappraisal is made, deliver or mail to each owner of such property a written notice stating the assessed valuation of the property as determined from the appraisal or reappraisal. **A notice issued pursuant to this paragraph must include a statement that the secured tax roll is available for inspection as specified in paragraphs (b), (c), (d) and (e) of subsection 3. If such a statement is published in a newspaper, the statement must be displayed in the format used for advertisements and printed in at least 10-point bold type or font.**

(b) Any personal property billed on the unsecured tax roll is appraised or reappraised pursuant to NRS 361.260, the delivery or mailing to the owner of such property of an individual tax bill or individual tax notice for the property shall be deemed to constitute adequate notice to the owner of the



assessed valuation of the property as determined from the appraisal or reappraisal.

7. If the secured tax roll is changed pursuant to NRS 361.310, the county assessor shall mail an amended notice of assessed valuation to each affected taxpayer. The notice must include:

(a) The information set forth in subsection 6 for the new assessed valuation.

(b) The dates for appealing the new assessed valuation.

8. Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. In addition to complying with subsections 6 and 7, a county assessor shall:

(a) Provide without charge a copy of a notice of assessed valuation to the owner of the property upon request.

(b) Post the information included in a notice of assessed valuation on a website or other Internet site, if any, that is operated or administered by or on behalf of the county or the county assessor.

**Sec. 10.** NRS 361.483 is hereby amended to read as follows:

361.483 1. Except as otherwise provided in ~~subsection 6~~ **this section** and NRS 361.736 to 361.7398, inclusive, taxes assessed upon the real property tax roll and upon mobile or manufactured homes are due on the third Monday of August.

2. Taxes assessed upon the real property tax roll may be paid in four approximately equal installments if the taxes assessed on the parcel exceed \$100.

3. Except as otherwise provided in this section, taxes assessed upon a mobile or manufactured home may be paid in four installments if the taxes assessed exceed \$100.

4. If a taxpayer owns at least 25 mobile or manufactured homes in a county that are leased for commercial purposes, and those mobile or manufactured homes have not been converted to real property pursuant to NRS 361.244, taxes assessed upon those homes may be paid in four installments if, not later than July 31, the taxpayer returns to the county assessor the written statement of personal property required pursuant to NRS 361.265.

5. Except as otherwise provided in this section and NRS 361.505, taxes assessed upon personal property may be paid in four approximately equal installments if:

(a) The total personal property taxes assessed exceed ~~[\$10,000;]~~ **\$5,000;**

(b) Not later than July 31, the taxpayer returns to the county assessor the written statement of personal property required pursuant to NRS 361.265;

(c) The taxpayer files with the county assessor, or county treasurer if the county treasurer has been designated to collect taxes, a written request to be billed in ~~quarterly~~ installments and includes with the request a copy of the written statement of personal property required pursuant to NRS 361.265; ~~and~~

(d) The *owner of the* personal property assessed ~~is the property of a business and the business~~ has paid ~~its~~ **all the** personal property taxes **assessed on the property** without accruing penalties for the immediately preceding 2 fiscal years in any county in the State ~~it~~; **and**

***(e) Not later than September 15, the county tax receiver issues to the taxpayer an individual tax bill for the personal property which itemizes the dates on which the installments are due. If that tax bill is issued on or after August 1 and on or before September 15, the first two installments are due on the first Monday of October, the third installment on the first Monday of January, and the fourth installment on the first Monday of March.***

6. ~~It~~ **Except as otherwise provided in subsection 5, if** a person elects to pay in installments, the first installment is due on the third Monday of August, the second installment on the first Monday of October, the third installment on the first Monday of January, and the fourth installment on the first Monday of March.

7. If any person charged with taxes which are a lien on real property fails to pay:

(a) Any one installment of the taxes on or within 10 days following the day the taxes become due, there must be added thereto a penalty of 4 percent.

(b) Any two installments of the taxes, together with accumulated penalties, on or within 10 days following the day the later installment of taxes becomes due, there must be added thereto a penalty of 5 percent of the two installments due.

(c) Any three installments of the taxes, together with accumulated penalties, on or within 10 days following the day the latest installment of taxes becomes due, there must be added thereto a penalty of 6 percent of the three installments due.

(d) The full amount of the taxes, together with accumulated penalties, on or within 10 days following the first Monday of March, there must be added thereto a penalty of 7 percent of the full amount of the taxes.

8. Any person charged with taxes which are a lien on a mobile or manufactured home who fails to pay the taxes within 10 days after an installment payment is due is subject to the following provisions:

(a) A penalty of 10 percent of the taxes due; and

(b) The county assessor may proceed under NRS 361.535.

9. If any property tax postponed pursuant to NRS 361.736 to 361.7398, inclusive, becomes due and payable and the person charged with that tax fails

to make the required payment within 10 days after it becomes due, there must be added thereto a penalty of 7 percent of the amount of the tax that is due. If the required payment is not paid within 30 days after it becomes due, there must be added thereto all penalties and interest that would have accrued had the property tax not been postponed pursuant to NRS 361.736 to 361.7398, inclusive.

10. The ex officio tax receiver of a county shall notify each person in the county who is subject to a penalty pursuant to this section of the provisions of NRS 360.419 and 361.4835.

**Sec. 11.** NRS 361.485 is hereby amended to read as follows:

361.485 1. Whenever any tax is paid to the ex officio tax receiver, he or she shall appropriately record the payment and the date thereof on the tax roll contiguously with the name of the person or the description of the property liable for the taxes, and shall give a receipt for the payment if requested by the taxpayer.

2. If the assessment roll is maintained on magnetic storage files in a computer system, the requirement of subsection 1 is met if the system is capable of producing, as printed output, the assessment roll with the dates of payments shown opposite the name of the person or the description of the property liable for the taxes.

3. If the amount of taxes *and penalties* paid on personal property ~~is~~ , *together with the amount of any partial abatements of those taxes to which the taxpayer may be entitled:*

(a) Results in an overpayment that is less than the average cost of collecting property taxes in this State as determined by the Nevada Tax Commission, the ex officio tax receiver shall pay the amount of the overpayment into the county treasury for the benefit of the general fund of the county, unless the taxpayer who made the overpayment requests a refund within 6 months after the original payment. All interest paid on money deposited in the county treasury pursuant to this paragraph is the property of the county.

(b) Results in a deficiency, the amount of the deficiency, other than a payment for a penalty, must be exempted from collection if the amount of the deficiency is less than the average cost of collecting property taxes in this State as determined by the Nevada Tax Commission.

4. If the amount of taxes paid on real property:

(a) Results in an overpayment that does not exceed the amount due by more than \$5, the ex officio tax receiver shall pay the amount of the overpayment into the county treasury for the benefit of the general fund of the county, unless the taxpayer who made the overpayment requests a refund within 6 months after the original payment. All interest paid on money

deposited in the county treasury pursuant to this paragraph is the property of the county.

(b) Results in a deficiency that is \$5 or less than the amount due, the ex officio tax receiver may exempt the amount of the deficiency from collection.

**Sec. 11.5. NRS 361.565 is hereby amended to read as follows:**

361.565 1. Except as otherwise provided in subsection 3, if the tax remains delinquent 30 days after the first Monday in April of each year, the tax receiver of the county shall cause notice of the delinquency to be published ~~for~~ :

**(a) At** least once in the newspaper which publishes the list of taxpayers pursuant to NRS 361.300. If there is no newspaper in the county, the notice must be posted in at least five conspicuous places within the county.

**(b) On an Internet website that is maintained by the county treasurer or, if the county treasurer does not maintain an Internet website, on an Internet website maintained by the county.**

2. The cost of publication in each case must be charged to the delinquent taxpayer, and is not a charge against the State or county. The publication must be made at not more than legal rates.

3. If the delinquent property consists of unimproved real estate assessed at a sum not exceeding \$25, the notice must be given by posting a copy of the notice in three conspicuous places within the county without publishing the notice in a newspaper.

4. The notice must contain the information required for a notice ~~mailed~~ **of delinquency** pursuant to **subsection 2 of** NRS 361.5648.

**Sec. 12. NRS 371.101 is hereby amended to read as follows:**

371.101 1. Vehicles registered by surviving spouses, not to exceed the amount of \$1,000 determined valuation, are exempt from taxation, but the exemption must not be allowed to anyone but actual bona fide residents of this State, and must be filed in but one county in this State to the same family.

2. For the purpose of this section, vehicles in which the surviving spouse has any interest shall be deemed to belong entirely to that surviving spouse.

3. The person claiming the exemption shall file with the Department in the county where the exemption is claimed an affidavit declaring his or her residency and that the exemption has been claimed in no other county in this State for that year. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so***

*requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail.*

4. A surviving spouse is not entitled to the exemption provided by this section in any fiscal year beginning after any remarriage, even if the remarriage is later annulled.

5. Beginning with the 2005-2006 Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

**Sec. 13.** NRS 371.102 is hereby amended to read as follows:

371.102 1. Vehicles registered by a person who is blind, not to exceed the amount of \$3,000 determined valuation, are exempt from taxation, but the exemption must not be allowed to anyone but bona fide residents of this State, and must be filed in but one county in this State on account of that person.

2. The person claiming the exemption must file with the county assessor of the county where the exemption is claimed an affidavit declaring that the person is an actual bona fide resident of the State of Nevada, that he or she is a person who is blind and that the exemption is claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in accordance with the provisions of chapter 719 of NRS.***

3. Upon first claiming the exemption in a county, the claimant shall furnish to the county assessor a certificate of a physician licensed under the laws of this State setting forth that the physician has examined the claimant and has found him or her to be a person who is blind.

4. Beginning with the 2005-2006 Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

5. As used in this section, "person who is blind" includes any person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20 degrees.

**Sec. 14.** NRS 371.103 is hereby amended to read as follows:

371.103 1. Vehicles, to the extent of \$2,000 determined valuation, registered by any actual bona fide resident of the State of Nevada who:

(a) Has served a minimum of 90 days on active duty, who was assigned to active duty at some time between April 21, 1898, and June 15, 1903, or between April 6, 1917, and November 11, 1918, or between December 7, 1941, and December 31, 1946, or between June 25, 1950, and May 7, 1975, or between September 26, 1982, and December 1, 1987, or between October 23, 1983, and November 21, 1983, or between December 20, 1989, and January 31, 1990, or between August 2, 1990, and April 11, 1991, or between December 5, 1992, and March 31, 1994, or between November 20, 1995, and December 20, 1996;

(b) Has served a minimum of 90 continuous days on active duty none of which was for training purposes, who was assigned to active duty at some time between January 1, 1961, and May 7, 1975;

(c) Has served on active duty in connection with carrying out the authorization granted to the President of the United States in Public Law 102-1; or

(d) Has served on active duty in connection with a campaign or expedition for service in which a medal has been authorized by the Government of the United States, regardless of the number of days served on active duty, ➡ and who received, upon severance from service, an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States, or who, having so served, is still serving in the Armed Forces of the United States, is exempt from taxation.

2. For the purpose of this section, the first \$2,000 determined valuation of vehicles in which such a person has any interest shall be deemed to belong to that person.

3. A person claiming the exemption shall file annually with the Department in the county where the exemption is claimed an affidavit declaring that he or she is an actual bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , *except as otherwise provided in this subsection*, mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➡ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. *If so requested by the person*

*claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail.*

4. Persons in actual military service are exempt during the period of such service from filing annual affidavits of exemption and the Department shall grant exemptions to those persons on the basis of the original affidavits filed. In the case of any person who has entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed in his or her behalf during the period of such service by any person having knowledge of the facts.

5. Before allowing any veteran's exemption pursuant to the provisions of this chapter, the Department shall require proof of status of the veteran, and for that purpose shall require production of an honorable discharge or certificate of satisfactory service or a certified copy thereof, or such other proof of status as may be necessary.

6. If any person files a false affidavit or produces false proof to the Department, and as a result of the false affidavit or false proof a tax exemption is allowed to a person not entitled to the exemption, the person is guilty of a gross misdemeanor.

7. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

**Sec. 15.** NRS 371.104 is hereby amended to read as follows:

371.104 1. A bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or his or her surviving spouse, is entitled to a veteran's exemption from the payment of governmental services taxes on vehicles of the following determined valuations:

(a) If he or she has a disability of 100 percent, the first \$20,000 of determined valuation.

(b) If he or she has a disability of 80 to 99 percent, inclusive, the first \$15,000 of determined valuation.

(c) If he or she has a disability of 60 to 79 percent, inclusive, the first \$10,000 of determined valuation.

2. For the purpose of this section, the first \$20,000 of determined valuation of vehicles in which an applicant has any interest shall be deemed to belong entirely to that person.

3. A person claiming the exemption shall file annually with the Department in the county where the exemption is claimed an affidavit declaring that he or she is a bona fide resident of the State of Nevada who

meets all the other requirements of subsection 1 and that the exemption is claimed in no other county within this State. After the filing of the original affidavit, the county assessor shall , ***except as otherwise provided in this subsection,*** mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➔ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail.***

4. Before allowing any exemption pursuant to the provisions of this section, the Department shall require proof of the applicant's status, and for that purpose shall require production of:

(a) A certificate from the Department of Veterans Affairs that the veteran has incurred a permanent service-connected disability, which shows the percentage of that disability; and

(b) Any one of the following:

(1) An honorable discharge;

(2) A certificate of satisfactory service; or

(3) A certified copy of either of these documents.

5. A surviving spouse claiming an exemption pursuant to this section must file with the Department in the county where the exemption is claimed an affidavit declaring that:

(a) The surviving spouse was married to and living with the veteran with a disability for the 5 years preceding his or her death;

(b) The veteran with a disability was eligible for the exemption at the time of his or her death; and

(c) The surviving spouse has not remarried.

➔ The affidavit required by this subsection is in addition to the certification required pursuant to subsections 3 and 4. After the filing of the original affidavit required by this subsection, the county assessor shall , ***except as otherwise provided in this subsection,*** mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail.***

6. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 371.103.



7. If any person makes a false affidavit or produces false proof to the Department, and as a result of the false affidavit or false proof the person is allowed a tax exemption to which he or she is not entitled, the person is guilty of a gross misdemeanor.

8. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

**Sec. 15.5.** NRS 250.085 is hereby amended to read as follows:

250.085 1. The board of county commissioners of each county shall by ordinance create in the county general fund an account to be designated as the Account for the Acquisition and Improvement of Technology in the Office of the County Assessor.

2. The money in the Account:

(a) Must be accounted for separately and not as a part of any other account; and

(b) Must not be used to replace or supplant any money available from other sources to acquire technology for and improve technology used in the office of the county assessor.

3. The money in the Account must be used to acquire technology for or improve the technology used in the office of the county assessor ~~or~~ **or by another entity with operational impact on the office of the county assessor**, including, without limitation, the payment of costs associated with acquiring or improving technology for converting and archiving records, purchasing hardware and software, maintaining the technology, training employees in the operation of the technology and contracting for professional services relating to the technology. ~~[At the discretion of the county assessor, the money may be used by other county offices that do business with the county assessor.]~~

4. On or before July 1 of each year, the county assessor shall submit to the board of county commissioners a report of the projected expenditures of the money in the Account for the following fiscal year. Any money remaining in the Account at the end of a fiscal year that has not been committed for expenditure reverts to the county general fund.

**Sec. 16.** Section 57 of chapter 496, Statutes of Nevada 2005, as last amended by chapter 287, Statutes of Nevada 2009, at page 1232, is hereby amended to read as follows:

Sec. 57. 1. This section and sections 52.1 to 52.8, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 22, inclusive, 24 to 28, inclusive, 42 to 52, inclusive, and 53 to 56, inclusive, of this act become effective on July 1, 2005.

3. Sections 29 to 41, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2006, for all other purposes.

4. Section 23 of this act becomes effective on July 1, ~~{2011,}~~ **2013.**

5. Section 43 of this act expires by limitation on June 30, ~~{2011,}~~ **2013.**

**Sec. 17.** NRS 361.170 and 361.230 are hereby repealed.

**Sec. 18.** The provisions of sections 1, 6 and 17 of this act do not apply to or affect the assessment of any taxes, the application or administration of any exemptions from taxation or the valuation of any property for any fiscal year beginning before July 1, 2012.

**Sec. 19.** 1. This section and sections 2 to 5, inclusive, 10, **11, 12** to 15, inclusive, and 16 of this act become effective upon passage and approval.

2. Sections 1, 6, 7, **9.5, 11.5,** 15.5, 17 and 18 of this act become effective on July 1, 2011.

#### TEXT OF REPEALED SECTIONS

**361.170 Claims for exemption: Requirements.** Any person, copartnership, association or corporation making claim to no situs status on any property under NRS 361.160 to 361.185, inclusive, shall do so in the form and manner prescribed by the Department. All such claims shall be accompanied by a certification of the warehouse company as to the status on its books of the property involved.

**361.230 Minimum valuation of patented land and land held under state land contract.**

1. No patented land of any description in the State of Nevada owned by any individual, partnership, association, estate, corporation or otherwise, and no land held under any state land contract, shall be assessed for less than \$1.25 per acre by the county assessors of the various counties.

2. If the county board of equalization shall ascertain that any land within its county has been assessed upon a valuation of less than \$1.25 per acre, or has not been assessed at all, the board shall notify the county assessor immediately to pay into the county treasury the taxes due on such land, in such a sum as will yield the full amount of taxes due upon such land upon its true value, which valuation shall not be less than \$1.25 per acre. If a county assessor fails to pay such taxes within 10 days after such notification by the county board of equalization, the district attorney shall file and prosecute diligently a suit against the county assessor and his or her surety or sureties on his or her official bond for the amount of such taxes.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 186; Senate Bills Nos. 18, 19, 30, 48, 94, 106, 149, 186, 194, 267, 293, 315, and 365 be taken from their position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bill No. 262 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 294 be taken from the General File and placed at the top of the General File.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 294.

Bill read third time.

The following amendment was proposed by Assemblywoman Carlton:

Amendment No. 815.

AN ACT relating to public health; revising provisions governing persons authorized to possess and administer dangerous drugs; revising provisions regarding certain acts of physicians; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the exclusive list of persons who may possess and administer dangerous drugs in this State. (NRS 454.213) ~~{Sections 1 and 7}~~ **Section 1** of this bill ~~{authorize}~~ **authorizes** medical assistants, under the supervision of a physician or physician assistant, to possess and administer ~~{dangerous drugs}~~ **immunizations** under certain circumstances. **Section 1** also authorizes a veterinary assistant, at the direction of a supervising veterinarian, to possess and administer dangerous drugs.

**Sections 4 and 10** of this bill ~~{authorize}~~ **require** the Board of Medical Examiners and the State Board of Osteopathic Medicine to adopt regulations relating to the supervision of medical assistants, including : **(1) limitations on the possession and administration of dangerous drugs** ~~{1}~~ ; **(2) any certification, training and educational requirements relating to the administration of immunizations; and (3) the clinical tasks which may be performed by a medical assistant.**

**Sections 6 and 12** of this bill provide that failure to supervise adequately a medical assistant is grounds for disciplinary action.

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

**Section 1.** NRS 454.213 is hereby amended to read as follows:

454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

1. A practitioner.
2. A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.
3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.
4. In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:
  - (a) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and
  - (b) Acting under the direction of the medical director of that agency or facility who works in this State.
5. Except as otherwise provided in subsection 6, an intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:
  - (a) The State Board of Health in a county whose population is less than 100,000;
  - (b) A county board of health in a county whose population is 100,000 or more; or
  - (c) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.
6. An intermediate emergency medical technician or an advanced emergency medical technician who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.

7. A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

8. A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

9. A medical student or student nurse in the course of his or her studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:

(a) In the presence of a physician or a registered nurse; or

(b) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

➡ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

10. Any person designated by the head of a correctional institution.

11. An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

12. A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

13. A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

14. A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

15. A physical therapist, but only if the drug or medicine is a topical drug which is:

(a) Used for cooling and stretching external tissue during therapeutic treatments; and

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

(2) The transmission of drugs through the skin using ultrasound.

16. In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

17. A veterinary technician *or a veterinary assistant* at the direction of his or her supervising veterinarian.

18. In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the “Standards ~~for~~ *for* Immunization Practices” recommended and approved by the ~~United States Public Health Service~~ Advisory Committee on Immunization Practices.

19. A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

20. ~~20. If the drug or medicine is an immunization, a medical assistant, in accordance with applicable regulations of the:~~

*(a) Board of Medical Examiners, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.*

*(b) State Board of Osteopathic Medicine, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.*

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. “Medical assistant” means a person who:

*(a) Performs clinical tasks under the supervision of a physician or physician assistant; and*

*(b) Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.*

2. *The term does not include a person who performs only administrative, clerical, executive or other nonclinical tasks.*

Sec. 4. The Board ~~may~~ *shall* adopt regulations governing the supervision of a medical assistant, including, without limitation, regulations which prescribe ~~limitations~~ *:*

**1. Limitations on the possession and administration of a dangerous drug by a medical assistant.**

**2. Any certification, training or educational requirements for a medical assistant to administer immunizations.**

**3. The clinical tasks that may be performed by a medical assistant, which must not include any invasive procedure other than the administration of an immunization.**

**Sec. 5.** NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.026, inclusive, *and section 3 of this act* have the meanings ascribed to them in those sections.

**Sec. 6.** NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he or she is not competent to perform or which are beyond the scope of his or her training.

6. Performing, without first obtaining the informed consent of the patient or the patient's family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Habitual intoxication from alcohol or dependency on controlled substances.

9. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

10. Failing to comply with the requirements of NRS 630.254.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against the licensee or applicant by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of a license to practice medicine in another jurisdiction.

12. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

13. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

14. Operation of a medical facility at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

↪ This subsection applies to an owner or other principal responsible for the operation of the facility.

15. Failure to comply with the requirements of NRS 630.373.

16. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

**17. Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.**

**Sec. 7. ~~[NRS 630.369 is hereby amended to read as follows:~~**

**~~630.369—1.—A person, other than a physician, shall not inject a patient with any chemotherapeutic agent classified as a prescription drug unless:~~**

**~~(a) The person is licensed or certified to perform medical services pursuant to this title [;~~**

**~~(b) The] and the administration of the injection is within the scope of the person's license or certificate; [and~~**

**~~(c) The person administers the injection under the supervision of a physician.]—#~~**

**~~(b) The person is a medical assistant authorized to administer a dangerous drug pursuant to NRS 454.213, the chemotherapeutic agent is classified as a dangerous drug and the person administers the injection under the supervision of a physician or physician assistant.~~**

**~~↪ The Board shall prescribe the requirements for supervision pursuant to this subsection.~~**

**~~2.—As used in this section:~~**



~~(a) “Dangerous drug” has the meaning ascribed to it in NRS 454.201.~~

~~(b) “Prescription drug” means:~~

~~(1) A controlled substance or dangerous drug that may be dispensed to an ultimate user only pursuant to a lawful prescription; and~~

~~(2) Any other substance or drug substituted for such a controlled substance or dangerous drug.~~ **(Deleted by amendment.)**

**Sec. 8.** Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

**Sec. 9. 1. “Medical assistant” means a person who:**

*(a) Performs clinical tasks under the supervision of an osteopathic physician or physician assistant; and*

*(b) Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.*

*2. The term does not include a person who performs only administrative, clerical, executive or other nonclinical tasks.*

**Sec. 10.** ~~The Board may~~ shall adopt regulations governing the supervision of a medical assistant, including, without limitation, regulations which prescribe ~~limitations~~ :

1. Limitations on the possession and administration of a dangerous drug by a medical assistant.

2. Any certification, training or educational requirements for a medical assistant to administer immunizations.

3. The clinical tasks that may be performed by a medical assistant, which must not include any invasive procedure other than the administration of an immunization.

**Sec. 11.** NRS 633.011 is hereby amended to read as follows:

633.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 633.021 to 633.131, inclusive, *and section 9 of this act* have the meanings ascribed to them in those sections.

**Sec. 12.** NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

- (e) Any felony involving the use of a firearm or other deadly weapon;
  - (f) Assault with intent to kill or to commit sexual assault or mayhem;
  - (g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;
  - (h) Abuse or neglect of a child or contributory delinquency; or
  - (i) Any offense involving moral turpitude.
3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.
4. Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a practitioner.
5. Professional incompetence.
6. Failure to comply with the requirements of NRS 633.527.
7. Failure to comply with the requirements of subsection 3 of NRS 633.471.
8. Failure to comply with the provisions of NRS 633.694.
9. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:
- (a) The license of the facility is suspended or revoked; or
  - (b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.
- ➡ This subsection applies to an owner or other principal responsible for the operation of the facility.
10. Failure to comply with the provisions of subsection 2 of NRS 633.322.
11. Signing a blank prescription form.
12. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.
13. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.
14. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.
15. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.
16. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state

or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

17. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

**18. *Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.***

**Sec. 13.** (Deleted by amendment.)

**Sec. 14.** This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

Assemblywoman Carlton moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 262.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 844.

AN ACT providing a charter for the City of Laughlin, in Clark County, Nevada; providing for an election to be held on the question of incorporation; making the incorporation of the City contingent upon a determination by the Board of County Commissioners of Clark County or the Legislative Commission and approval of this act by qualified electors of the City; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Legislature may provide for the incorporation of a city by a special act. (Nev. Const. Art. 8, § 8) **Section 1** of this bill provides a charter for the City of Laughlin. **Section 4** of this bill requires the Committee on Local Government Finance to prepare a report with respect to the fiscal feasibility of the incorporation of the City of Laughlin and submit it to the Board of County Commissioners of Clark County and the Legislative Commission by December 31, 2011. **Sections 4, 5 and 17** of this bill make the incorporation of the City of Laughlin contingent upon whether the Board of County Commissioners of Clark County or the Legislative Commission determines that the incorporation is fiscally feasible and, if so, upon the approval of the Charter by the qualified electors of the City. **Sections 5-9** of this bill provide, under such circumstances, for the Board of County Commissioners of Clark County to conduct an election on the question of incorporation and a consolidated primary election for candidates for City Council and Mayor. **Sections 11 and 12** of this bill provide for a general election of members of the City Council and a Mayor, contingent upon the approval of incorporation. **Section 10** of this bill authorizes the Board of

County Commissioners to accept gifts, grants and donations to pay for any expenses associated with incorporation, including, without limitation, the costs of the Committee on Local Government Finance for preparing the fiscal feasibility report and for an election held on the question of incorporation and a general election of the Mayor and City Council. **Sections 2 and 10** of this bill provide that to the extent that gifts, grants and donations do not cover such expenses, the Board of County Commissioners shall use the Fort Mohave Valley Development Fund to pay the costs.

**Sections 13-15** of this bill authorize the elected City Council to perform various functions before the effective date of incorporation, including preparing and adopting a budget, preparing and adopting ordinances, negotiating and preparing contracts for personnel and various services, negotiating with Clark County for the equitable apportionment of the fixed assets of Clark County that are located in the City of Laughlin and negotiating and preparing certain cooperative agreements with the County. **Section 17** provides for the effective date of incorporation, which will be July 1, 2013, if approved by the voters. ~~on that day.~~

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

**Section 1.** The Charter of the City of Laughlin is as follows. Each section of the Charter shall be deemed to be a section of this act for the purpose of any subsequent amendment.

#### **ARTICLE I**

#### **INCORPORATION OF CITY; GENERAL POWERS; BOUNDARIES; ANNEXATIONS; CITY OFFICES**

##### **Section 1.010 Preamble: Legislative intent; powers.**

*1. In order to provide for the orderly government of the City of Laughlin and the general welfare of its residents, the Legislature hereby establishes this Charter for the government of the City of Laughlin. It is expressly declared as the intent of the Legislature that all provisions of this Charter be liberally construed to carry out the express purposes of the Charter and that the specific mention of particular powers shall not be construed as limiting in any way the general powers necessary to carry out the purposes of the Charter.*

*2. Any powers expressly granted by this Charter are in addition to any powers granted to a city by the general law of this State. All provisions of the Nevada Revised Statutes which are applicable generally to cities, unless otherwise expressly mentioned in this Charter or chapter 265, 266 or 267 of NRS, and which are not in conflict with the provisions of this Charter apply to the City of Laughlin.*

##### **Sec. 1.020 Incorporation of City.**

1. *All persons who are inhabitants of that portion of the State of Nevada embraced within the limits set forth in section 1.030 shall constitute a political and corporate body by the name of "City of Laughlin," and by that name they and their successors shall be known in law, have perpetual succession and may sue and be sued in all courts.*

2. *Whenever used throughout this Charter, "City" means the City of Laughlin.*

*Sec. 1.030 Description of territory. The territory embraced in the City is hereby defined and established as follows:*

1. *All those portions of Township 32 South, Range 64 East; Township 32 South, Range 65 East; Township 32 South, Range 66 East; Township 33 South, Range 65 East; Township 33 South, Range 66 East; Township 34 South, Range 66 East, M.D.B. & M., which are located in the County of Clark, State of Nevada.*

2. *Excepting therefrom the following described land:*

(a) *That land referred to as the Fort Mojave Indian Reservation, approximately 3,842 acres of land, being a portion of Sections 17, 19, 20 thru 22, 27 thru 28, 30 thru 33 and all of Section 29 of Township 33 South, Range 66 East, Clark County, Nevada, and a portion of Section 5 of Township 34 South, Range 66 East, Clark County, Nevada.*

(b) *Further excepting therefrom Township 34 South, Range 66 East, M.D.B. & M., Clark County, Nevada.*

(c) *Further excepting therefrom the following described Parcels of land referred to as the "Hotel Corridor":*

(1) *Parcel 1. The South Half (S 1/2) of the South Half of Section 12 of Township 32 South, Range 66 East, M.D.M., Clark County, Nevada, excepting therefrom State Route 163 recorded in Book 920722 as Instrument 00564, Official Records of Clark County, Nevada, together with Parcel 1 of File 70 of Parcel Maps at Page 20, Official Records of Clark County Nevada, also together with Civic Way recorded in Book 910906 as Instrument Number 00680, Official Records of Clark County, Nevada, lying within the South Half (S 1/2) of the South Half (S 1/2) of said Section 12.*

(2) *Parcel 2. Section 13, Township 32 South, Range 66 East, M.D.M., Clark County, Nevada, excepting therefrom that remaining portion of Parcel 1 of File 53 of Parcel Maps at Page 53, Official Records of Clark County, Nevada, lying within the Southwest Quarter (SW 1/4) of said Section 13, more particularly described as beginning at the Northeast corner of said Parcel 1, said point being on the Southerly right-of-way line of Bruce Woodbury Drive (90.00 feet wide); thence departing said Southerly right-of-way line and along the Easterly line of said Parcel 1, South 01°08'21" West, 100.00 feet to the Northerly line of Parcel 4 as*

*shown by map thereof recorded in File 98 of Parcel Maps at Page 17, Official Records of Clark County, Nevada; thence along said Northerly line of Parcel 4 the following 2 courses: North 89°59'51" West, 75.00 feet; North 01°08'21" East, 100.00 feet to said Southerly right-of-way and said Northerly line of Parcel 1; thence along said Southerly right-of-way line and along said Northerly line of Parcel 1, South 89°59'51" East, 75.00 feet to the Point of Beginning.*

*(3) Parcel 3. Section 24 of Township 32 South, Range 66 East, M.D.M., Clark County, Nevada excepting therefrom Government Lots 7 & 8 of said Section 24, together with Lots 1 & 2 of File 54 of Parcel Maps at Page 79, Official Records of Clark County, Nevada, lying within the Southwest Quarter (SW 1/4) of said Section 24.*

*Sec. 1.040 Limitation on future annexation. Notwithstanding any provision of law to the contrary, no area may be annexed into the boundaries of the City unless a majority of the owners of the real property that make up the area petition the City Council for annexation into the City.*

*Sec. 1.050 Form of government.*

*1. The municipal government provided by this Charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the Constitution of this State and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as "the Council," which shall:*

*(a) Enact local legislation;*

*(b) Adopt budgets;*

*(c) Determine policies; and*

*(d) Appoint the City Manager, who shall execute the laws and administer the government of the City.*

*2. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner is not prescribed, then in such manner as may be prescribed by ordinance.*

*Sec. 1.060 Construction of Charter. This Charter, except where the context by clear implication otherwise requires, must be construed as follows:*

*1. The titles or leadlines which are applied to the articles and sections of this Charter are inserted only as a matter of convenience and ease in reference and in no way define, limit or describe the scope or intent of any provision of this Charter.*

*2. The singular number includes the plural number, and the plural includes the singular.*

*3. The present tense includes the future tense.*

*ARTICLE II*  
*CITY COUNCIL*

*Sec. 2.010 Number; selection and term; recall. The Council shall have four Council members and a Mayor elected from the City at large in the manner provided in Article X, for terms of 4 years and until their successors have been elected and have taken office as provided in section 2.100, subject to recall as provided in Article XI. No Council member shall represent any particular constituency or district of the City, and each Council member shall represent the entire City.*

*Sec. 2.020 Qualifications.*

*1. No person shall be eligible for the office of Council member or Mayor unless he or she is a qualified elector of the City and has been a resident of the City for at least 1 year immediately before the election in which he or she is a candidate. He or she shall hold no other elective public office, but may hold a commission as a notary public or be a member of the Armed Forces reserve. No employee of the City or officer thereof, excluding Council members, receiving compensation under the provisions of this Charter or any City ordinance, shall be a candidate for or eligible for the office of Council member or Mayor without first resigning from city employment or city office.*

*2. If a Council member or the Mayor ceases to possess any of the qualifications enumerated in subsection 1 or is convicted of a felony, or ceases to be resident of the City, his or her office shall immediately become vacant.*

*Sec. 2.030 Salaries.*

*1. For the first 2 years after election of the first members of the Council after adoption of this Charter, each member of the Council shall receive as compensation for his or her services as such a monthly salary of \$125.00, and the member elected to fill the Office of Mayor shall receive the additional amount of \$25.00 for each month said member shall fill the Office of Mayor.*

*2. After the period specified in subsection 1 ~~and~~ and upon recommendation from the Charter Committee established pursuant to section 9.100 of Article IX, the Council may determine the annual salaries of the Mayor and Council members by ordinance. The Council shall not adopt an ordinance which increases or decreases the salary of the Mayor or the Council members during the term for which they have been elected or appointed.*

*3. Absence of a member of the Council from all regular and special meetings of the Council during any calendar month shall render him or*

*her ineligible to receive the monthly salary for such a calendar month unless by permission of the Council expressed in its official minutes.*

*4. The Mayor and Council members shall be reimbursed for their personal expenses when conducting or traveling on city business as authorized by the Council. Reimbursement for use of their personal automobiles will be at the rate per mile established by the rules of the Internal Revenue Service of the United States.*

*5. The Mayor and Council members shall receive no additional compensation or benefit other than that mandated by state or federal law.*

*Sec. 2.040 Mayor; Mayor Pro Tem; duties.*

*1. The Mayor shall:*

*(a) Serve as a member of the Council and preside over its meetings;*  
*(b) Have no administrative duties; and*  
*(c) Be recognized as the head of the city government for all ceremonial purposes and for the purposes of dealing with emergencies if martial law has been imposed on the City by the State or Federal Government.*

*2. The Council shall elect one of its members to be Mayor Pro Tem, who shall:*

*(a) Hold such office and title, without additional compensation, for the period of 1 year;*  
*(b) Perform the duties of the Mayor during the absence or disability of the Mayor; and*  
*(c) Assume the position of Mayor, if that office becomes vacant, until the next regular election.*

*Sec. 2.050 Powers. Except as otherwise provided in this Charter, all powers of the City and the determination of all matters of policy shall be vested in the Council. The Council shall have, without limitation, the power to:*

*1. Establish other administrative departments and distribute the work of divisions.*

*2. Adopt the budget of the City.*

*3. Adopt civil service rules and regulations.*

*4. Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs.*

*5. Appoint the members of all boards, commissions and committees for specific or indefinite terms as provided elsewhere in this Charter or in various resolutions or ordinances, with all such persons serving at the pleasure of the Council, provided, however, that all persons so appointed must be and remain bona fide residents of the City during the tenure of each appointment.*

*6. Levy such taxes as are authorized by applicable laws.*

*Sec. 2.060 Powers: Zoning and Planning. The Council may:*



1. *Divide the City into districts and regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land within the districts.*

2. *Establish and adopt ordinances and regulations relating to the subdivision of land.*

*Sec. 2.070 Council not to interfere in removals.*

1. *Neither the Council nor any of its members shall direct or request the removal of any person from office by the City Manager or by any of his or her subordinates, or in any manner take part in the removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry and as otherwise provided in this Charter, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.*

2. *Any Council member violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, is guilty of a misdemeanor and upon conviction thereof shall cease to be a Council member.*

*Sec. 2.080 Vacancies in Council. Except as otherwise provided in NRS 268.325, a vacancy on the Council must be filled by appointment by a majority of the remaining members of the Council within 30 days or after three regular or special meetings, whichever is the shorter period of time. In the event of a tie vote among the remaining members of the Council, selection must be made by lot. No such appointment extends beyond the next municipal election.*

*Sec. 2.090 Creation of new departments or offices; change of duties. The Council by ordinance may:*

1. *Create, change and abolish offices, departments or agencies, other than offices, departments and agencies established by this Charter.*

2. *Assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.*

*Sec. 2.100 Induction of Council into office; meetings of Council.*

1. *The Council shall meet within 10 days after each ~~city~~ primary municipal election and each ~~city~~ general municipal election specified in Article X, to canvass the returns and to declare the results. All newly elected or reelected Mayor or Council members shall be inducted into office at the next regular Council meeting following certification of the applicable ~~city~~ general municipal election results. Immediately following such induction, the Mayor Pro Tem shall be designated as provided in*

*section 2.040. Thereafter, the Council shall meet regularly at such times as it shall set by resolution from time to time, but not less frequently than once each month.*

*2. Special meetings may be held on a call of the Mayor or by a majority of the Council. Reasonable effort must be made to give notice of the special meeting to each Council member, the Mayor, City Clerk, City Attorney and City Manager. Only that business which was stated in the call of the special meeting may be discussed.*

*3. Except as otherwise provided in NRS 241.0355, a majority of all Council members constitutes a quorum to do business, but a lesser number may meet and recess from time to time, and compel the attendance of the absent Council members.*

*4. No meeting of the Council may be held for the purpose of conducting or discussing City business except as provided in this section.*

*~~Sec. 2.110 Council to be judge of qualifications of its members. The Council shall be the judge of the election and qualifications of its members and for such purpose shall have the power to subpoena witnesses and require the production of records, but the decision of the Council in any such case shall be subject to review by the courts.~~*

*~~Sec. 2.120~~ Rules of procedure.*

*1. The Council shall establish rules by ordinance for the conduct of its proceedings and to preserve order at its meetings. It shall, through the City Clerk, maintain a journal record of its proceedings which shall be open to public inspection. Any member of the Council may place items on the Council agenda to be considered by the Council.*

*2. The Council may organize special committees of its members for the principal functions of the government of the City. It shall be the duty of each such committee to be informed of the business of the city government included within the assigned functions of the committee, and, as ordered by the Council, to report to the Council information or recommendations which shall enable the Council properly to legislate.*

*~~Sec. 2.130~~ 2.120 Investigations by Council.*

*1. The Council shall have power to inquire into the conduct of any office, department, agency or officer of the City and to make investigations as to municipal affairs. The Council shall have the power and authority on any investigation or proceeding pending before it to impel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Each member of the Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Council.*

*2. Subpoenas may be issued in the name of the City pursuant to subsection 1 and may be attested by the City Clerk. Disobedience of such*

*subpoenas or the refusal to testify upon other than constitutional grounds shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.*

*Sec. ~~2.140~~ 2.130 Council's power to make and pass ordinances, resolutions.*

*1. The Council shall have the power to make and pass all ordinances, resolutions and orders, not repugnant to the Constitution of the United States or of the State of Nevada or to the provisions of this Charter, necessary for the municipal government and the management of the city affairs, for the execution of all powers vested in the City, and for making effective the provisions of this Charter.*

*2. The Council shall have the power to enforce obedience to its ordinances by such fines, imprisonments or other penalties as the Council may deem proper, but the punishment for any offense shall not be greater than the penalties specified for misdemeanors under applicable provisions of Nevada Revised Statutes in effect at the time such offense occurred.*

*3. The Council may enact and enforce such local police ordinances as are not in conflict with the general laws of the State of Nevada.*

*4. Any offense made a misdemeanor by the laws of the State of Nevada shall also be deemed to be a misdemeanor in the City of Laughlin whenever such offense is committed within the city limits.*

*Sec. ~~2.150~~ 2.140 Voting on ordinances and resolutions.*

*1. No ordinance or resolution shall be passed without receiving the affirmative votes of at least three members of the Council.*

*2. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council. Upon the request of any member of the Council, the ayes and noes shall be taken and recorded upon any vote. All members of the Council present at any meeting shall vote, except ~~upon~~ :*

*(a) Upon matters in which they have financial interest ~~for when~~ ;*

*(b) When they are reviewing an appeal from a decision of a city commission, before which they have appeared as an advocate for or an adversary against the decision being appealed ~~+~~; or*

*(c) When they are required to abstain from voting pursuant to the provisions of NRS 281A.420.*

*Sec. ~~2.160~~ 2.150 Enactment of ordinances; subject matter, titles.*

*1. No ordinance shall be passed except by bill, and when any ordinance is amended, the section or sections thereof must be reenacted as amended, and no ordinance shall be revised or amended by reference only to its title.*

*2. Every ordinance, except those revising the city ordinances, shall embrace but one subject and matters necessarily connected therewith and pertaining thereto, and the subject shall be clearly indicated in the title,*

*and in all cases where the subject of the ordinance is not so expressed in the title, the ordinance shall be void as to the matter not expressed in the title.*

*Sec. ~~2.170~~ 2.160 Introduction of ordinances; notice; final action; publication.*

*1. The style of ordinances must be as follows: "The Council of the City of Laughlin does ordain." All proposed ordinances, when first proposed, must be read by title to the Council, after which an adequate number of copies of the ordinance must be deposited with the City Clerk for public examination and distribution upon request. Notice of the deposit of the copies, together with an adequate summary of the ordinance, must be published once in a newspaper published in the City, if any, otherwise in some newspaper published in the County which has a general circulation in the City, at least 10 days before the adoption of the ordinance. At any meeting at which final action on the ordinance is considered, at least one copy of the ordinance must be available for public examination. The Council shall adopt or reject the ordinance, or the ordinance as amended, within 30 days after the date of publication, except that in cases of emergency, by unanimous consent of the whole Council, final action may be taken immediately or at a special meeting called for that purpose.*

*2. After final adoption, the ordinance must be signed by the Mayor, and, together with the votes cast on it, must be:*

*(a) Published by title, together with an adequate summary including any amendments, once in a newspaper published in the City, if any, otherwise in a newspaper published in the County and having a general circulation in the City; and*

*(b) Posted in full in the city hall.*

*3. Except as otherwise provided in subsections 4 and 5, all ordinances become effective 20 days after publication.*

*4. Emergency ordinances having for their purpose the immediate preservation of the public peace, health or safety, containing a declaration of and the facts constituting its urgency and passed by a four-fifths vote of the Council, and ordinances calling or otherwise relating to a municipal election, become effective on the date specified therein.*

*5. All ordinances having for their purpose the lease or sale of real estate owned by the City, except city-owned subdivision or cemetery lots, may be effective not fewer than 5 days after the publication.*

*Sec. ~~2.180~~ 2.170 Adoption of specialized, uniform codes. An ordinance adopting any specialized or uniform building, plumbing or electrical code or codes, printed in book or pamphlet form or any other specialized or uniform code or codes of any nature whatsoever so printed, may adopt such code, or any portion thereof, with such changes as may be*

*necessary to make the same applicable to conditions in the City, and with such other changes as may be desirable, by reference thereto, without the necessity of reading the same at length. Such code, upon adoption, need not be published if an adequate number of copies of such code, either typewritten or printed, with such changes, if any, have been filed for use and examination by the public in the Office of the City Clerk at least 1 week before the passage of the ordinance adopting the code, or any amendment thereto. Notice of such filing shall be given in accordance with the provisions of subsection 2 of section ~~2.170~~ 2.160.*

*Sec. ~~2.190~~ 2.180 Codification of ordinances; publication of Code.*

*1. The Council shall have the power to codify and publish a code of its municipal ordinances in the form of a Municipal Code, which Code may, at the election of the Council, have incorporated therein a copy of this Charter and such additional data as the Council may prescribe.*

*2. The ordinances in the Code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, attestations and other formal parts.*

*3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances, and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of Laughlin."*

*4. The codification may, by ordinance regularly passed, adopted and published, be amended or extended.*

*Sec. ~~2.200~~ 2.190 Independent annual audit. Before the end of each fiscal year, the Council shall designate qualified accountants who, as of the end of the fiscal year, shall make a complete and independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the Council and to the City Manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the Council, shall postaudit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.*

### **ARTICLE III**

#### **CITY MANAGER**

*Sec. 3.010 Appointment and qualifications.*

*1. The Council shall appoint a City Manager by a majority vote who by virtue of his or her position as City Manager shall be an officer of the City*

*and who shall have the powers and shall perform the duties in this Charter provided. No member of the Council shall receive such appointment during the term for which he or she shall have been elected, nor within 1 year after the expiration of his or her term.*

*2. The City Manager shall be chosen on the basis of his or her executive and administrative qualifications. The City Manager shall be paid a salary commensurate with his or her responsibilities as Chief Administrative Officer of the City as set by resolution of the Council.*

*3. The Council shall appoint the City Manager for an indefinite term and may remove him or her in accordance with the procedures set forth in section 3.020.*

*Sec. 3.020 Removal.*

*1. Before removal of the City Manager may become effective, the Council must adopt, by the affirmative votes of at least four members, a resolution that must state the reasons for the proposed removal of the City Manager and may provide for the suspension of the City Manager from duty, but shall in any case cause to be paid him or her forthwith any unpaid balance of his or her salary and his or her salary for the next calendar month following the date of adoption of the resolution. A copy of the resolution must be delivered promptly to the City Manager.*

*2. The City Manager may reply in writing, and any member of the Council may request a public hearing, which, if requested, shall be held not earlier than 20 days or later than 30 days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Council may remove the City Manager by motion adopted by the affirmative votes of at least four members of the Council.*

*Sec. 3.030 Powers and duties. The City Manager shall be the Chief Administrative Officer and the Head of the Administrative Branch of the city government. The City Manager shall be responsible to and under the direction of the Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities, and duties, the City Manager shall have the power and be required to:*

*1. Subject to the civil service rules and regulations adopted by the Council, and with the approval of the Council, appoint all department heads and officers of the City except those officers the power of appointment of whom is vested in the Council and as otherwise provided in this Charter;*

*2. Subject to the civil service rules and regulations adopted by the Council and ordinances adopted pursuant thereto, pass upon and approve all proposed appointments and removals of subordinate employees, by all officers and heads of offices, agencies and departments;*

3. *Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption;*

4. *Prepare and submit to the Council at the end of the fiscal year a complete report of the finances and administrative activities of the City for the preceding fiscal year;*

5. *Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him or her desirable;*

6. *Keep himself or herself informed of the activities of the several agencies, offices and departments of the City and see to the proper administration of their affairs and the efficient conduct of their business;*

7. *Be vigilant and active in causing all provisions of the law to be executed and enforced;*

8. *Perform all such duties as may be prescribed by this Charter or required of him or her by the Council, not inconsistent with this Charter;*

9. *Submit a monthly report to the Council covering significant activities of the city agencies, offices and departments under his or her supervision and any significant changes in administrative rules and procedures promulgated by him or her; and*

10. *Submit special reports in writing to the Council in answer to any requests for information filed with the City Manager by a member of the Council.*

*Sec. 3.040 Seat at Council table. The City Manager shall be accorded a seat at the Council table and shall be entitled to participate in the deliberations of the Council, but shall not have a vote. The City Manager shall attend all regular and special meetings of the Council unless physically unable to do so or unless his or her absence has received prior approval by a majority of the Council.*

*Sec. 3.050 Absence, disability. To perform his or her duties during his or her temporary absence or disability, the City Manager may designate by letter filed with the City Clerk one of the other officers or department heads of the City to serve as acting City Manager during such temporary absence or disability. Such designation shall be subject to change thereof by the Council. In the event of the failure of the City Manager to make such a designation, the Council may by resolution appoint an officer or department head of the City to perform the duties of the City Manager until he or she shall be prepared to resume the duties of office.*

#### **ARTICLE IV**

##### **OFFICERS AND EMPLOYEES**

*Sec. 4.010 City administrative organization.*

1. *The Council may provide by ordinance not inconsistent with this Charter for the organization, conduct and operation of the several offices, departments and other agencies of the City as established by this Charter, for the creation of additional departments, divisions, offices and agencies and for their alteration or abolition, for their assignment and reassignment to departments, and for the number, titles, qualifications, powers, duties and compensation of all officers and employees.*

2. *The Council by ordinance may assign additional functions or duties to offices, departments or other agencies established by this Charter, but, except as otherwise provided in subsection 3, shall not discontinue or assign to any other office, department or other agency any function or duty assigned by this Charter to a particular office, department or agency. No office provided in this Charter, to be filled by appointment by the City Manager, shall be combined with an office provided in this Charter to be filled by appointment by the Council.*

3. *Notwithstanding the foregoing, the Council may transfer or consolidate functions of the city government to or with appropriate functions of the state or county government and, in case of any such transfer or consolidation, the provisions of this Charter providing for the functions of the city government so transferred or consolidated, shall be deemed suspended during the continuance of such transfer or consolidation, to the extent that such suspension is made necessary or convenient and is set forth in the ordinance establishing such transfer or consolidation. Any such transfer or consolidation may be repealed by ordinance.*

4. *Subject to the civil service rules and regulations adopted by the Council and section 3.020 of Article III, all officers and department heads of the City, except the City Attorney, Municipal Judge and the City Clerk, shall be appointed by the City Manager and shall thereafter serve at the pleasure of the City Manager.*

5. *Officers of the City appointed by the Council shall be required to reside within the city limits within 3 months of appointment. Employees of the City shall be required to live within a 50-mile radius of the City within 6 months of employment.*

*Sec. 4.020 Officers appointed by the Council.*

1. *In addition to the City Manager, the Council shall appoint the City Attorney and the Municipal Judge, if required pursuant to section 5.020 of Article V, who shall serve at the pleasure of the Council and may be removed by motion of the Council adopted by the affirmative votes of at least four members of the Council.*

2. *Subject to the provisions of this Charter and rules and regulations adopted by the Council, the Council shall appoint the City Clerk who shall*



*serve at the pleasure of the Council and may be removed by motion of the Council adopted by the affirmative votes of three members of the Council.*

*3. The appointments of city officers pursuant to subsections 1 and 2 shall be for indefinite terms, and each such officer shall receive such compensation and other benefits as may be determined by resolution of the Council from time to time.*

*4. Any city officer may be temporarily suspended with full pay at any time by a majority vote of the Council, but no city officer may be removed from office unless he or she has first been given an opportunity for a hearing before the Council, at his or her request, with not less than 7 days' prior notice of the time and place of the hearing. Such hearing may be either public or private, as requested by the officer, and at the hearing, the officer may be assisted by his or her own legal counsel. Any action of the Council following such hearing shall be considered final and conclusive. If a city officer is so removed, the Council will appoint a person as a temporary replacement to perform the duties of the removed officer, and will appoint a qualified person as a permanent replacement officer as soon as practicable.*

*5. No person shall be appointed as a city officer who is a grandparent, parent, uncle, aunt, brother, sister, nephew, niece, child or grandchild, by birth, marriage or adoption, of a city officer, employee or Council member at the time of appointment.*

*Sec. 4.030 City Clerk powers and duties. The City Clerk shall have the power and be required to:*

*1. Receive all documents addressed to the Council and present such documents to the Council.*

*2. Attend all meetings of the Council and its committees and be responsible for:*

*(a) Recording and maintaining an accurate journal of Council proceedings;*

*(b) Recording the ayes and noes in the final action upon the questions of granting franchises, making of contracts, approving of bills, disposing of or leasing city property, the passage or reconsideration of any ordinance, or upon any other act that involves the payment of money or the incurring of debt by the City; and*

*(c) Other duties as required upon the call of any member of the Council.*

*3. Maintain the journal of Council proceedings in books which shall bear appropriate titles and which shall be available for public inspection.*

*4. Maintain separate books in which shall be recorded respectively all ordinances and resolutions, with the certificate of the City Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been*

*published or posted in accordance with this Charter, and maintain all such books properly indexed and available for public inspection when not in actual use.*

*5. Have charge of the repository for contracts, surety bonds, agreements, and other related documents of City business.*

*6. Maintain custody of the City seal.*

*7. Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City, and issue certified copies of official City records.*

*8. Conduct all City elections.*

*Sec. 4.040 City Attorney; qualifications, power and duties.*

*1. The City Attorney shall be an attorney at law duly licensed under the laws of the State of Nevada. He or she shall devote such time to the duties of his or her office as may be specified in the ordinance or resolution fixing the compensation of such office. If practicable, the Council shall appoint an attorney who has had special training or experience in municipal corporation law.*

*2. The City Attorney shall have the power and be required to:*

*(a) Represent and advise the Council and all city officers in all matters of law pertaining to their offices;*

*(b) Attend all meetings of the Council and give his or her advice or opinion in writing whenever requested to do so by the Council or by any of the officers and boards of the City;*

*(c) Prepare or approve all proposed ordinances and resolutions for the City, and amendments thereto;*

*(d) Prosecute on behalf of the people such criminal cases for violation of this Charter or city ordinances, and of misdemeanor offenses and infractions arising upon violations of the laws of the State as, in his or her opinion, that of the Council or of the City Manager, warrant his or her attention;*

*(e) Represent and appear for the City, any city officer or employee, or former city officer or employee, in any or all actions and proceedings in which the City or any such officer or employee, in or by reason of his or her official capacity, is concerned or is a party;*

*(f) Approve the form of all bonds given to, and all contracts made by, the City, endorsing his or her approval thereon in writing; and*

*(g) On vacating the office, surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.*

*3. The Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.*

*Sec. 4.050 Director of Finance; qualifications, powers and duties.*

1. *The person appointed by the City Manager for the position of Director of Finance shall be qualified to administer and direct an integrated Department of Finance.*

2. *The Director of Finance shall have the power and be required to:*

(a) *Have charge of the administration of the financial affairs of the City under the direction of the City Manager.*

(b) *Supervise and be responsible for the disbursement of all money and have control over all expenditures to ensure that budget appropriations are not exceeded.*

(c) *Supervise a system of financial internal control including the auditing of all purchase orders before issuance, the auditing and approving before payment of all invoices, bills, payrolls, claims, demands or other charges against the City, and, with the advice of the City Attorney, when necessary, determining the regularity, legality and correctness of such charges.*

(d) *With the advice of the City Attorney, settle claims, demands or other charges, including the issuing of warrants therefor.*

(e) *Maintain general and cost accounting systems for the city government and each of its offices, departments and other agencies.*

(f) *Keep separate accounts for the items of appropriation contained in the city budget. Each account shall show the amount of appropriations, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance.*

(g) *Require reports of the receipts and disbursements from each receiving and expending agency of the city government to be made daily or at such intervals as he or she may deem expedient.*

(h) *Submit to the Council through the City Manager a monthly statement of all receipts and disbursements and other financial data in sufficient detail to show the exact financial condition of the City, and, as of the end of each fiscal year, submit a complete financial statement and report.*

(i) *Administer the license and business tax program of the City.*

(j) *Direct treasury administration for the City, including, without limitation:*

(1) *Receiving and collecting revenues and receipts from whatever source;*

(2) *Maintaining custody of all public funds belonging to or under the control of the City or any office, department or other agency of the city government; and*

(3) *Depositing all funds coming into his or her hands in such depository as may be designated by resolution of the Council, or, if no such resolution is adopted, by the City Manager, in compliance with all of the*

*provisions of the Constitution and laws of this State governing the handling, depositing, and securing of public funds.*

*(k) Direct centralized purchasing and a property control system for the city government under rules and regulations to be prescribed by ordinance.*

*Sec. 4.060 Performance review. On or before the annual anniversary date of the appointment of persons serving in the positions of City Manager, City Attorney and City Clerk, the Council shall review and evaluate the performance of such appointees.*

*Sec. 4.070 Appointment powers of department heads. Subject to the approval of the City Manager and subject to civil service rules and regulations adopted by the Council, each head of a department, office or other agency shall have the power to appoint and remove such deputies, assistants, subordinates and employees as are provided for by the Council for his or her department, office or other agency.*

#### **ARTICLE V**

##### **JUDICIAL**

*Sec. 5.010 Municipal court. The municipal court must be presided over by the Justice of the Peace of Laughlin Township as ex officio municipal judge.*

*Sec. 5.020 Municipal judge appointed. If the Office of Justice of the Peace of Laughlin Township ceases to exist, the municipal court shall be presided over by a municipal judge appointed by the Council.*

#### **ARTICLE VI**

##### **CITY BUDGETS**

*Sec. 6.010 Budgets. Budgets for the City shall be prepared in accordance with and shall be governed by the provisions of the general laws of the State pertaining to budgets of cities.*

#### **ARTICLE VII**

##### **Public Improvements and Repairs**

*Sec. 7.010 Expenses of improvements; payment by funds or by special assessments. The expenses of public improvements and repairs, such as the improvement of streets and alleys by grading, paving, graveling and curbing, the construction, repair, maintenance and preservation of sidewalks, drains, curbs, gutters, storm sewers, drainage systems, sewerage systems and sewerage disposal plants, may be paid from the General Fund or Street Fund or the cost or portion thereof as the Council shall determine, may be defrayed by special assessments upon lots and premises abutting upon that part of the street or alley so improved or proposed so to be, or the land abutting upon such improvement and such other lands as in*

*the opinion of the Council may benefit by the improvement all in the manner contained in the provisions of the Nevada Revised Statutes.*

#### **ARTICLE VIII**

##### **CITY ASSESSOR; TAX RECEIVER; FINANCES AND PURCHASING**

*Sec. 8.010 Clark County Assessor to be ex officio City Assessor. The County Assessor of Clark County shall, in addition to the duties now imposed upon him or her by law, act as the Assessor of the City and shall be ex officio City Assessor, without further compensation. He or she shall perform such duties as the Council may by ordinance prescribe with the County Assessor's consent.*

*Sec. 8.020 Clark County Treasurer to be ex officio City Tax Receiver. The County Treasurer of Clark County shall, in addition to the duties now imposed upon him or her by law, act as ex officio City Tax Receiver. He or she shall receive and safely keep all moneys that come to the City by taxation, and shall pay the same to the Director of Finance. The City Tax Receiver may, with the consent of the Council, collect special assessments which may be levied by authority of this Charter or city ordinance when they become due and payable, and whenever and wherever the general laws of the State of Nevada regarding the authorized acts of tax receivers may be, the same hereby are, made applicable to the City Tax Receiver of the City of Laughlin, in the collection of city special assessments.*

*Sec. 8.030 Procedures for city purchasing. All purchases of goods or services of every kind or description for the City by any office, commission, board, department or any division thereof shall be made in conformance with the Nevada Revised Statutes, as amended from time to time.*

*Sec. 8.040 Transfer of appropriations. The City Manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency.*

*Sec. 8.050 When contracts and expenditures prohibited.*

*1. No officer, department or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Any officer or employee of the City who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his or her office or employment.*

*2. Nothing in this section shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in*

*part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.*

**ARTICLE IX**  
**APPOINTIVE BOARDS AND COMMISSIONS**

*Sec. 9.010 Established; enumerated.*

*1. The Council may create by ordinance such other appointive boards or commissions as in its judgment are required and may grant to them powers and duties as are consistent with the provisions of this Charter. The Council, by motion adopted by the affirmative votes of at least a majority of its members, may appoint from time to time temporary committees as deemed advisable to render counsel and advice to the appointing authorities on any designated matters or subjects within the jurisdiction of such authorities.*

*2. The Personnel Board is hereby established and has the powers and duties contained in this Article.*

*Sec. 9.020 Appointments, removals, vacancies, terms.*

*1. Except as otherwise specified in this Charter, the members of each of the appointive boards and commissions shall be appointed, and may be removed, by the Council, subject in both appointment and removal by the affirmative votes of a majority of the Council. For the purposes of this rule, residency is only required at the time of nomination.*

*2. If a member of a board or commission:*

*(a) Is absent from two regular meetings of such board or commission, consecutively, unless by permission of such board or commission expressed in its official minutes;*

*(b) Fails to attend at least one-half of the regular meetings of such board or commission within a calendar year;*

*(c) Is convicted of a crime involving moral turpitude; or*

*(d) Ceases to be a qualified elector of the City,*

*↪ the office of that member shall become vacant and shall be so declared by the Council.*

*3. Except as otherwise provided in subsection 2 or section 9.030, the members of such boards and commissions shall serve for a term of 2 years and until their respective successors are appointed and qualified.*

*Sec. 9.030 Prohibition against serving as treasurer for campaign committee. If any member of an appointive board or commission shall become the treasurer of a campaign committee which receives contributions for any candidate for Mayor or Council member, his or her office shall become vacant and shall be so declared by the Council. Any provisions of this Article notwithstanding, no person who serves as the*

*treasurer of a campaign committee which receives contributions for any candidate for Mayor or Council member shall be eligible for appointment to any appointive board or commission.*

*Sec. 9.040 Appropriations therefor. The Council shall include in its annual budget such appropriations of funds as, in its opinion, shall be sufficient for the efficient and proper functioning of such appointive boards and commissions.*

*Sec. 9.050 Meetings; chair.*

*1. The election of each chair and vice chair shall be held at the meetings of the respective boards and commissions during the month of July of each year. The board or commission, in the event of a vacancy in the office of the chair or vice chair, shall elect one of its members for the unexpired term. The chair shall have the responsibility for informing the Council or board, commission or committee of actions or inactions and the reasons therefor.*

*2. Each board or commission, other than the Personnel Board, shall hold a regular meeting at least once a month with reasonable provision for attendance by the public. The City Manager shall designate a secretary for the recording of minutes for each such board and commission, who shall keep a record of its proceedings and transactions. Each board and commission shall prescribe rules and regulations governing its operations which shall be consistent with this Charter and shall be filed with the City Clerk for public inspection. The Personnel Board shall meet monthly, provided there is business on the agenda to come before it. In the event no business is placed on the Personnel Board's agenda 5 days preceding the tentative meeting date, no meeting need be held, provided that in no event shall more than 3 months intervene between meetings of the Personnel Board.*

*Sec. 9.060 Compensation. The members of appointive boards and commissions shall receive such compensation, if any, as may be prescribed by ordinance and may receive reimbursement for necessary traveling and other expenses when on official duty of the City when such expenditure has been so authorized by the board or commission and subject to rules and regulations prescribed by ordinance or order of the Council.*

*Sec. 9.070 Attendance of witnesses; oaths and affirmations. Each appointive board or commission shall have the same power as the Council to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Each member of any such board or commission shall have the power to administer oaths and affirmations in any investigation or proceeding pending before such board or commission.*

*Sec. 9.080 Personnel Board: Membership. The Personnel Board shall consist of five members to be appointed by the Council from the qualified electors of the City. None of the members shall be removed from office without reasonable and sufficient cause, in accordance with procedures as provided by ordinance. None of the members shall hold public office or employment in the city government or be a candidate for any other public office or position, be an officer of any local, state or national partisan political club or organization, or while a member of the Personnel Board or for a period of 1 year after he or she has ceased for any reason to be a member, be eligible for appointment to any salaried office or employment in the service of the City.*

*Sec. 9.090 Personnel Board: Powers and duties. The Personnel Board shall have the power and be required to:*

*1. Hear appeals pertaining to the disciplinary suspension, demotion or dismissal of any officer or employee having permanent status in any office, position or employment in the civil service, and as otherwise provided for in the civil service rules and regulations;*

*2. Consider matters that may be referred to it by the Council or the City Manager and render such counsel and advice in regard thereto as may be requested by the referring authorities;*

*3. By its own motion, make such studies and investigations as it may deem necessary for the review of civil service rules and regulations, or to determine the wisdom and efficacy of the rules, regulations, policies, plans and procedures dealing with civil service matters and report its findings and recommendations to the City Manager or the Council, or to both such authorities, as it may see fit; and*

*4. Conduct public hearings on proposed revisions of civil service rules and regulations in the manner as prescribed by ordinance and advise the Council of its findings in such matters within 60 days.*

*Sec. 9.100 Charter Committee: Appointment; terms; qualifications; compensation.*

*1. The Charter Committee must be appointed as follows:*

*(a) One member by each member of the Council.*

*(b) One member by the Mayor.*

*(c) One member by each member of the Senate and Assembly delegation representing the residents of the City.*

*2. Each member shall:*

*(a) Serve during the term of the person by whom he or she was appointed;*

*(b) Be a registered voter of the City; and*

*(c) Reside in the City during his or her term of office.*



3. Members of the Committee are entitled to receive compensation, in an amount set by ordinance of the Council, for each full meeting of the Committee they attend.

Sec. 9.110 Charter Committee: Meetings; duties.

The Charter Committee shall:

1. Meet at least once every 2 years immediately before the beginning of each regular session of the Legislature and when requested by the Council or the Chair of the Committee.

2. Prepare recommendations to be presented to the Legislature on behalf of the City concerning all necessary amendments to this Charter.

3. Recommend to the Council the salary to be paid all elective officers for the ensuing term.

4. Perform all functions and do all things necessary to accomplish the purposes for which it is established, including, but not limited to, holding meetings and public hearings, and obtaining assistance from City officers.

Sec. 9.120 Charter Committee members: Removal; grounds.

1. Any member of the Charter Committee may be removed by a majority of the remaining members of the Committee for cause, including the failure or refusal to perform the duties of office, the absence from three successive regular meetings, or ceasing to meet any qualification for appointment to the Committee.

2. In case of removal, a replacement must be appointed by the officer who appointed the removed member.

## ARTICLE X CITY ELECTIONS

*Sec. 10.010 Applicability of state election laws. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the Council which are consistent with law and this Charter.*

*Sec. 10.020 Terms. All full terms of office in the Council are 4 years, and Council members and the Mayor must be elected at large without regard to precinct residency. Two full-term Council members and the Mayor are to be elected in each year ~~immediately preceding~~ of a federal presidential election, and two full-term Council members are to be elected ~~in each year~~ 2 years immediately following a federal presidential election. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant full-term positions.*

*Sec. 10.030 Specific Council positions. In the event a 2-year term position on the Council will be available at the time of a municipal election as provided in section 10.020, a candidate must file specifically for such a*

*position. The candidate receiving the greatest respective number of votes must be declared elected to the available 2-year position.*

*Sec. 10.040 ~~{Primary municipal}~~ Municipal elections. ~~{A city}~~ Except as otherwise provided in this Charter, a primary municipal election and a general municipal election must be held on ~~{the first Tuesday after the first Monday in April of each odd-numbered year.}, and a city general election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.}~~ the dates fixed by the election laws of this State for statewide elections.*

*Sec. 10.050 Primary not required. A primary municipal election must not be held if not more than double the number of Council members to be elected file as candidates. A primary municipal election must not be held for the Office of Mayor if not more than two candidates file for that position. The primary municipal election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council members to be elected.*

*Sec. 10.060 General municipal election not required. If, in the primary ~~{city}~~ municipal election, a candidate receives votes equal to a majority of voters casting ballots in that election, he or she shall be considered elected to one of the vacancies and his or her name shall not be placed on the ballot for the general ~~{city}~~ municipal election.*

*Sec. 10.070 Voters entitled to vote for each seat on ballot. In each primary municipal election and general municipal election, voters shall be entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections.*

*Sec. 10.080 Council to control elections. The conduct of all municipal elections shall be under the control of the Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the Council to provide for supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud.*

## **ARTICLE XI**

### **INITIATIVE, REFERENDUM AND RECALL**

*Sec. 11.010 Registered voters' power of initiative and referendum concerning city ordinances. The registered voters of a city may:*

*1. Propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without change in substance, adopt or reject it at a primary or general municipal election or primary or general state election; and*

2. *Require reconsideration by the Council of any adopted ordinance, and if the Council fails to repeal an ordinance so considered, approve or reject it at a primary or general municipal election or primary or general state election.*

*Sec. 11.020 Initiative and referendum proceedings. All initiative and referendum proceedings shall be conducted in conformance with the provisions of the Nevada Revised Statutes, as amended from time to time.*

*Sec. 11.030 Results of election.*

1. *If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the results of the election and must be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes prevails to the extent of the conflict.*

2. *If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the results of the election.*

3. *No initiative ordinance voted upon by the registered voters or an initiative ordinance in substantially the same form as one voted upon by the people, may again be placed on the ballot until the next primary or general municipal election or primary or general state election.*

*Sec. 11.040 Repealing ordinances; publication. Initiative and referendum ordinances adopted or approved by the voters may be published and shall not be amended or repealed by the Council, as in the case of other ordinances.*

*Sec. 11.050 Recall of Council members. As provided by the general laws of this State, every member of the Council is subject to recall from office.*

## ARTICLE XII

### PUBLIC UTILITIES

*Sec. 12.010 Granting of franchises.*

1. *The City shall have the power to grant a franchise to any private corporation for the use of streets and other public places in the furnishing of any public utility service to the City and to its inhabitants.*

2. *All franchises and any renewals, extensions and amendments thereto shall be granted only by ordinance. A proposed franchise ordinance shall be submitted to the City Manager, and he or she shall render to the Council a written report containing recommendations thereon.*

3. *The City shall have the power, as one of the conditions of granting any franchise, to impose a franchise tax, either for the purpose of license or for revenue.*

*Sec. 12.020 Conditions and transfer of franchises.*

1. *Every franchise or renewal, extension or amendment of a franchise hereafter granted shall:*

*(a) Include that the City may issue such orders with respect to safety and other matters as may be necessary or desirable for the community; and*

*(b) Reserve to the City the right to make all future regulations or ordinances deemed necessary for the preservation of the health, safety and public welfare of the City, including, without limitation, regulations concerning the imposition of uniform codes upon the utilities, standards and rules concerning the excavations and use to which the streets, alleys and public thoroughfares may be put and regulations concerning placement of easement improvements such as poles, valves, hydrants and the like.*

2. *No franchise shall be transferred hereafter by any utility to another without the approval of the Council, and as a condition to such approval, the successor in interest to the said franchise shall execute a written agreement containing a covenant that it will comply with all the terms and conditions of the franchise then in existence.*

*Sec. 12.030 Condemnation. The City, by initiative ordinance, shall have the right to condemn the property of any public utility subject to the provisions of chapter 37 of NRS. The public utility shall receive just compensation for the taking of its property. Such an initiative petition must be voted on by the people and cannot be passed by simple acceptance of the Council.*

*Sec. 12.040 Establishment of municipally owned and operated utilities.*

1. *The City shall have power to own and operate any public utility, to construct and install all facilities that are reasonably needed and to lease or purchase any existing utility properties used and useful in public service.*

2. *The Council may provide by ordinance for the establishment of such utility, but an ordinance providing for a newly owned and operated utility shall be enacted only after such hearings and procedure as required herein for the granting of a franchise, and shall also be submitted to and approved at a popular referendum provided that an ordinance providing for any extension, enlargement or improvement of an existing utility may be enacted as a matter of general municipal administration.*

3. *The City shall have the power to execute long-term contracts for the purpose of augmenting the services of existing municipally owned utilities.*

*Such contracts shall be passed only in the form of ordinances and may exceed in length the terms of office of the members of the Council.*

*Sec. 12.050 Municipal utility organizations.*

*1. The Council may provide for the establishment of a separate department to administer the utility function, including the regulation of privately owned and operated utilities and the operation of municipally owned utilities. Such department shall keep separate financial and accounting records for each municipally owned and operated utility and before February 1 of each fiscal year, shall prepare for the City Manager, in accordance with his or her specifications, a comprehensive report of each utility. The responsible departments or officer shall endeavor to make each utility financially self-sustaining, unless the Council shall by ordinance adopt a different policy. All net profits derived from municipally owned and operated utilities may be expended in the discretion of the Council for general municipal purposes.*

*2. The rates for the products and services of any municipally owned and operated utility shall only be established, reduced, altered or increased by resolution of the Council following a public hearing.*

*Sec. 12.060 Financial provisions.*

*1. The City may finance the acquisition of privately owned utility properties, the purchase of land and the cost of all construction and property installation for utility purposes by borrowing in accordance with the provisions of general law.*

*2. Appropriate provisions shall be made for the amortization and retirement of all bonds within a maximum period of 40 years. Such amortization and retirement may be effected through the use of depreciation funds or other financial resources provided through the earnings of the utility.*

*Sec. 12.070 Sale of public utilities; proviso.*

*1. No public utility of any kind, after having been acquired by the City, may thereafter be sold or leased by the City, unless the proposition for the sale or lease has been submitted to the electors of the City at a special election or primary or general municipal election or primary or general state election. After a majority vote of those electors in favor of the sale, the sale may not be made except after 30 days' published notice thereof, except that the provisions of this section do not apply to a sale by the Council of parts, equipment, trucks, engines and tools which have become obsolete or worn out, any of which equipment may be sold by the Council in the regular course of business.*

*2. A special election may be held only if the Council determines, by a unanimous vote, that an emergency exists. The determination made by the Council is conclusive unless it is shown that the Council acted with fraud*

*or a gross abuse of discretion. An action to challenge the determination made by the Council must be commenced within 15 days after the Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the Council to prevent or mitigate a substantial financial loss to the City or to enable the Council to provide an essential service to the residents of the City.*

### **ARTICLE XIII**

#### **MISCELLANEOUS PROVISIONS**

*Sec. 13.010 Removal of officers and employees. Subject to the provisions of this Charter not inconsistent herewith, any employee of the City may be suspended or dismissed from employment at any time by the City Manager or by any applicable person appointed by the City Manager pursuant to this Charter. Unless otherwise provided in this Charter, any such action shall be considered final and conclusive and shall not be subject to appeal to any city governmental entity.*

*Sec. 13.020 Right of City Manager and other officers of Council. The City Manager shall have the right to take part in the discussion of all matters coming before the Council, and the directors and other officers shall be entitled to take part in all discussions of the Council relating to their respective offices, departments or agencies.*

*Sec. 13.030 Personal interest.*

*1. No elective or appointive officer shall take any official action on any contract or other matter in which he or she has any financial interest.*

*2. A violation of the provisions of this section shall constitute a misdemeanor, subject to a penalty not to exceed the penalties specified for misdemeanors under applicable provisions of Nevada Revised Statutes in effect at the time of such violation.*

*Sec. 13.040 Official bonds. Officers or employees, as the Council may by general ordinance require so to do, including a municipal court judge appointed pursuant to section 5.020 of Article V, if any, shall give bond in such amount and with such surety as may be approved by the Council. The premiums on such bonds shall be paid by the City.*

*Sec. 13.050 Oath of office. Every officer of the City shall, before entering upon the duties of his or her office, take and subscribe to the official oath of office of the State of Nevada:*

*"I,....., do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any Ordinance, Resolution or Law of any State*

*notwithstanding, and I will well and faithfully perform all the duties of the Office of..... on which I am about to enter; (if any oath) so help me God; (if any affirmation) under the pains and penalties of perjury.”*

*Sec. 13.060 ~~{Amending the Charter.~~*

*~~1. An amendment to this Charter:~~*

*~~(a) May be made by the Legislature directly by the use of mandatory specific wording or indirectly by the use of wording allowing flexibility in expressing the required change. If a law is enacted which:~~*

*~~(1) Directly amends this Charter, such an amendment is not subject to public approval as provided in paragraph (b) and must be included in the Charter and identified as having been amended by the particular law involved.~~*

*~~(2) Requires that this Charter be amended but does not require the specific wording to be used, the Council shall propose a suitable amendment to be submitted to the registered voters of the City as provided by paragraph (b). If such a proposed amendment is not adopted by the voters, it must be redrafted and resubmitted to the voters at one or more general city elections or general state elections until an amendment is adopted.~~*

*~~(b) May be proposed by the Council and submitted to the registered voters of the City at a general city election or general state election.~~*

*~~(c) May be proposed by a petition signed by registered voters of the City equal in number to 15 percent or more of the voters who voted at the latest preceding general city election and submitted to registered voters of the City at the next general city election or general state election.~~*

*~~2. The City Attorney shall draft any amendment proposed pursuant to subparagraph (2) of paragraph (a) or paragraph (b) of subsection 1, or if such a proposed amendment has been previously drafted, the City Attorney shall review the previous draft and recommend to the Council any suggested changes or corrections.~~*

*~~3. The City Attorney shall, upon request, review any amendment intended to be proposed by petition pursuant to paragraph (c) of subsection 1, make only such corrections as are agreed to by the proposers and report to the Council his or her analysis of the significance and potential effects of the proposed amendment.~~*

*~~4. A petition for amendment must be in the form specified by state law for city initiative petitions and must be filed with the City Clerk not later than 6 months before the date of the general city election or general state election at which the proposed amendment is to be submitted to the voters of the City.~~*

*~~5. When an amendment is adopted by the registered voters of the City, the City Clerk shall, within 30 days thereafter, transmit a certified copy of the amendment to the Legislative Counsel.~~*

~~6. Any amendment to the Charter proposed under the provisions of this section shall be adopted by a simple majority of the voters casting ballots on that question at two consecutive general elections before any such amendment shall become effective.~~

~~Sec. 13.070~~ *Short title; citation of City of Laughlin Act of 2011. This Charter shall be known and may be cited as the City of Laughlin Charter.*

~~Sec. 13.080~~ 13.070 *Construction of Charter; separability of provisions.*

*1. Whenever any reference is made to any portion of the Nevada Revised Statutes or of any other law of the State or of the United States, such reference shall apply to all amendments and additions thereto now or hereafter made.*

*2. If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of the section to which such holding shall directly apply.*

**Sec. 2.** Section 9 of the Fort Mohave Valley Development Law, being chapter 427, Statutes of Nevada 2007, as amended by chapter 369, Statutes of Nevada 2009, at page 1860, is hereby amended to read as follows:

Sec. 9. Limitations on use of money.

~~{The}~~

*1. Except as otherwise provided in subsection 2, the Board of County Commissioners may use money in the Fort Mohave Valley Development Fund only to:*

~~{1.}~~ *(a) Purchase or otherwise acquire lands described in sections 4 and 8 of this act; and*

~~{2.}~~ *(b) Administer the Fort Mohave Valley Development Law exclusively for the purposes of developing the Fort Mohave Valley and any general improvement district, special district, town or city whose territory contains all or a part of the land in the Fort Mohave Valley, including, without limitation, the planning, design and construction of capital improvements which develop the land in the Fort Mohave Valley or in any general improvement district, special district, town or city whose territory contains all or a part of the land in the Fort Mohave Valley.*

*2. The Board of County Commissioners shall use money in the Fort Mohave Valley Development Fund to pay:*

*(a) Any costs incurred by the Committee on Local Government Finance created by NRS 354.105, for the preparation of the report related to the*



*fiscal feasibility of the incorporation of the City of Laughlin that is required by section 4 of this act;*

*(b) Any costs incurred by the County to hold the elections described in sections 5 and 11 this act; and*

*(c) Any other costs incurred by the County or City of Laughlin associated with the incorporation of the City of Laughlin,*

*↪ to the extent that gifts, grants or donations are not available to pay for the expenses.*

**Sec. 3.** As used in sections 3 to 16, inclusive, of this act:

1. “Board of County Commissioners” means the Board of County Commissioners of Clark County.

2. “City” means the City of Laughlin.

3. “City Council” means the City Council elected pursuant to section 11 of this act.

4. “County” means the County of Clark.

5. “Fort Mohave Valley Development Fund” means the fund created in the County Treasury pursuant to section 6 of the Fort Mohave Valley Development Law.

6. “Qualified elector” means a person who is registered to vote in this State and is a resident of the area to be included in the City, as shown by the last official registration lists before the election.

**Sec. 4.** 1. On or before December 31, 2011, the Committee on Local Government Finance, created by NRS 354.105, shall prepare and submit a report to the Board of County Commissioners and the Legislative Commission with respect to the fiscal feasibility of the incorporation of the City. This report must:

(a) Include, without limitation analyses of:

(1) The tax revenue and other revenues of the County that may be impacted by the incorporation of the City.

(2) The tax revenue and other revenues of the Township of Laughlin compared to the potential tax revenue and other revenues of the City after incorporation.

(3) The expenditures made by the Township of Laughlin compared to the anticipated expenditures of the City after incorporation.

(4) The expenditures made by the County for support of the Township of Laughlin that may or may not be impacted by the incorporation of the City.

(b) Be made available to the public for consideration before any election on the question of incorporation held pursuant to section 5 of this act.

2. Not later than 90 days after receiving the report, the Board of County Commissioners and the Legislative Commission shall review the report and

make a determination as to whether the incorporation of the City is fiscally feasible.

3. The County Clerk shall cause the report to be published in a newspaper printed in the County and having a general circulation in the City at least once a week for 3 consecutive weeks. If the Board of County Commissioners or the Legislative Commission determines that the incorporation of the City is fiscally feasible, the final publication of the report must be published before the date of the election held pursuant to section 5 of this act.

**Sec. 5.** 1. If the Board of County Commissioners or the Legislative Commission determines pursuant to section 4 of this act that the incorporation of the City is fiscally feasible, an election on the question of incorporation of the City of Laughlin must be held. The election will also be a primary election for the offices of Mayor and City Council.

2. The Board of County Commissioners may call a special election for the purposes of subsection 1, or may conduct an election pursuant to subsection 1 on the date of the first primary election held in the County after the Board of County Commissioners receives the report required by section 4 of this act. The special election, if any, must be held within 90 days after the Board of County Commissioners receives the report prepared pursuant to section 4 of this act and conducted in accordance with the provisions of law relating to general elections so far as the same can be made applicable.

3. If the Board of County Commissioners calls a special election for the purposes of subsection 1, the County Clerk shall cause a notice of the election to be published in a newspaper printed in the County and having a general circulation in the City at least once a week for 3 consecutive weeks. The final publication of notice must be published before the date of the election.

4. If the Board of County Commissioners conducts an election pursuant to subsection 1 on the day of the first primary election held in the County after the Board of County Commissioners receives the report required by section 4 of this act, the County Clerk shall cause notice of the election to be published pursuant to NRS 293.203.

5. The notice of the election held pursuant to subsection 3 or 4 must contain:

- (a) The date of the election;
- (b) The hours during the day in which the polls will be open;
- (c) The location of the polling places;
- (d) A statement of the question in substantially the same form as it will appear on the ballots;
- (e) The names of the candidates; and
- (f) A list of the offices to which the candidates seek election.

**Sec. 6.** The incorporation question on the ballots used for an election held pursuant to section 5 of this act must be in substantially the following form:

Shall the area described as.....(describe area) be incorporated as the City of Laughlin?

Yes ☐ No ☐

The voter shall mark the ballot by placing a cross (x) next to the word “yes” or “no.”

**Sec. 7.** 1. A person who wishes to become a candidate for any office to be voted for at an election held pursuant to section 5 of this act must:

- (a) Reside within the boundaries of the City;
- (b) File an affidavit of candidacy, which must include a declaration of residency, with the County Clerk not later than the date for the filing of such affidavits as set by the County Clerk; and
- (c) File a nomination petition containing at least 100 signatures of qualified electors.

2. Qualified electors may sign more than one nominating petition for candidates for the same office.

3. A candidate may withdraw his or her candidacy pursuant to the provisions of NRS 293.202.

4. If there are less than three candidates for any office to be filled at a primary election held pursuant to section 5 of this act, their names must not be placed on the ballot for the primary election but must be placed on the ballot for a general election held pursuant to section 11 of this act.

5. The names of the two candidates for mayor and for each seat on the City Council who receive the highest number of votes in a primary election held pursuant to section 5 of this act must be placed on the ballot for a general election held pursuant to section 11 of this act.

**Sec. 8.** 1. At least 10 days before an election held pursuant to section 5 of this act, the County Clerk shall cause to be mailed to each qualified elector a sample ballot for his or her precinct with a notice informing the elector of the location of his or her polling place.

2. The sample ballot must:

- (a) Include the question in the form required by section 6 of this act;
- (b) Describe the area proposed to be incorporated by assessor’s parcel maps, existing boundaries of subdivision or parcel maps, identifying visible ground features, extensions of the visible ground features, or by any boundary that coincides with the official boundary of the state, a county, a city, a township, a section or any combination of these; and
- (c) Include the names of candidates for the various offices as determined pursuant to section 7 of this act.

**Sec. 9.** 1. The Board of County Commissioners shall canvass the votes cast in an election held pursuant to section 5 of this act in the same manner as votes are canvassed in a general election. Upon completion of the canvass, the Board shall immediately notify the County Clerk of the results.

2. The County Clerk shall, upon receiving notice of the canvass from the Board of County Commissioners, immediately cause to be published a notice of the results of the election in a newspaper of general circulation in the County. If the incorporation is approved by the voters, the notice must include the category of the City according to population, as described in NRS 266.055. The County Clerk shall file a copy of the notice with the Secretary of State.

**Sec. 10.** 1. The Board of County Commissioners may accept gifts, grants and donations to pay for any expenses that are related to the incorporation of the City, including, without limitation:

(a) The costs incurred by the Committee on Local Government Finance for preparing the fiscal feasibility report required by section 4 of this act;

(b) The costs incurred by the County to hold any elections described in sections 5 and 11 of this act; and

(c) Any other costs incurred by the County or City associated with the incorporation of the City of Laughlin.

2. To the extent that gifts, grants and donations do not pay the costs of the expenses described in subsection 1, the Board of County Commissioners shall order the County Treasurer to pay such expenses from the Fort Mohave Valley Development Fund.

3. The County Clerk shall submit to the Board of County Commissioners a statement of all expenses related to conducting any elections held pursuant to sections 5 and 11 of this act.

**Sec. 11.** 1. If the incorporation of the City is approved by the voters at an election held pursuant to section 5 of this act, a general election must be held to elect four members of the City Council and the Mayor. The Board of County Commissioners may conduct a special election for the purposes of this subsection, or may conduct the election required by this subsection on the date of the first general election held in the County after the date of the election held pursuant to section 5 of this act. The election must be conducted in accordance with the provisions of law relating to general elections so far as the same can be made applicable.

2. The names of the two candidates for Mayor and for each particular seat on the City Council who receive the highest number of votes in the primary election must be placed on the ballot for the general election. A candidate for Mayor or a seat on the City Council may not withdraw from the general election.

**Sec. 12.** 1. The term of the Mayor elected pursuant to section 11 of this act expires upon the election and qualification of the person elected Mayor in the ~~first~~ general **municipal** election held **in 2016** pursuant to section 10.020 of the City of Laughlin Charter.

2. ~~The terms of two of the members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the first general election held pursuant to section 10.020 of the City of Laughlin Charter. The terms of the remaining members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the second general election held pursuant to section 10.020 of the City of Laughlin Charter.~~

~~3.~~ The members of the City Council elected pursuant to section 11 of this act shall, at the first meeting of the City Council after their election and qualification, draw lots to determine the length of their respective terms.

**3. The terms of two of the members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the general municipal election held in 2014 pursuant to section 10.020 of the City of Laughlin Charter. The terms of the two other members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the general municipal election held in 2016 pursuant to section 10.020.**

**Sec. 13.** Before the incorporation of the City becomes effective but after the general election held pursuant to section 11 of this act, the City Council may:

1. Prepare and adopt a budget;
2. Prepare and adopt ordinances;
3. Prepare to levy an ad valorem tax on property within the area of the City, at the time and in the amount prescribed by law for cities, for the fiscal year beginning on the date the incorporation of the City becomes effective;
4. Negotiate and prepare an equitable apportionment of the fixed assets of the County pursuant to section 15 of this act;
5. Negotiate and prepare contracts for the employment of personnel;
6. Negotiate and prepare contracts to provide services for the City, including, without limitation, those services provided for by chapter 277 of NRS;
7. Negotiate and prepare contracts for the purchase of equipment, materials and supplies;
8. Negotiate and prepare contracts or memorandums of understanding with the County for the City to provide services to unincorporated areas of the County that are contiguous to the City;

9. Negotiate and prepare a cooperative agreement pursuant to NRS 360.730; and

10. Communicate with and provide information to the Department of Taxation to effectuate the allocation of tax revenues on the date the incorporation of the City becomes effective.

**Sec. 14.** 1. During the period from the filing of the notice of results of an election conducted pursuant to section 5 of this act by the County Clerk until the date the incorporation of the City becomes effective, the County is entitled to receive the taxes and other revenue from the City and shall continue to provide services to the City.

2. Except as otherwise provided in NRS 318.492, all special districts, except fire protection districts, located within the boundaries of the City continue to exist within the City after the incorporation becomes effective.

**Sec. 15.** 1. The City Council and the Board of County Commissioners shall, before the date that the incorporation becomes effective or within 90 days after that date, equitably apportion those fixed assets of the County which are located within the boundaries of the City. The City Council and the Board of County Commissioners shall consider the location, use and types of assets in determining an equitable apportionment between the County and the City.

2. Any real property and its appurtenances located within the City and not required for the efficient operation of the County's duties must first be applied toward the City's share of the assets of the County. Any real property which is required by the County for the efficient operation of its duties must not be transferred to the City.

3. If an agreement to apportion the assets of the County is not reached within 90 days after the incorporation of the City, the matter may be submitted to arbitration upon the motion of either party.

4. Any appeal of the arbitration award must be filed with the district court within 30 days after the award is granted.

**Sec. 16.** Any property located within the City which was assessed and taxed by the County before incorporation must continue to be assessed and taxed to pay for the indebtedness incurred by the County before incorporation.

**Sec. 17.** 1. This section and sections 2 to 16, inclusive, of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective, if the incorporation of the City of Laughlin is approved by the voters at an election held pursuant to section 5 of this act, on July 1, 2013.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 24.

Bill read third time.

Roll call on Senate Bill No. 24:

YEAS—42.

NAYS—None.

Senate Bill No. 24 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 40.

Bill read third time.

Roll call on Senate Bill No. 40:

YEAS—42.

NAYS—None.

Senate Bill No. 40 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 47

Bill read third time.

Remarks by Assemblyman McArthur.

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

Assembly in recess at 6:59 p.m.

#### ASSEMBLY IN SESSION

At 7:01 p.m.

Mr. Speaker presiding.

Quorum present.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Senate Bill No. 47 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 92.

Bill read third time.

Roll call on Senate Bill No. 92:

YEAS—37.

NAYS—Ellison, Hambrick, Hammond, Hardy, Kite—5.

Senate Bill No. 92 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 191.

Bill read third time.

Roll call on Senate Bill No. 191:

YEAS—42.

NAYS—None.

Senate Bill No. 191 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 204.

Bill read third time.

Roll call on Senate Bill No. 204:

YEAS—37.

NAYS—Ellison, Goedhart, Hardy, Livermore, Munford—5.

Senate Bill No. 204 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 222.

Bill read third time.

Roll call on Senate Bill No. 222:

YEAS—42.

NAYS—None.

Senate Bill No. 222 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 254.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Senate Bill No. 254:

YEAS—35.

NAYS—Ellison, Goedhart, Hardy, Hickey, Kite, Munford, Woodbury—7.

Senate Bill No. 254 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 307.

Bill read third time.



Roll call on Senate Bill No. 307:

YEAS—28.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, Munford, Sherwood, Woodbury—14.

Senate Bill No. 307 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 405.

Bill read third time.

Roll call on Senate Bill No. 405:

YEAS—42.

NAYS—None.

Senate Bill No. 405 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 432.

Bill read third time.

Roll call on Senate Bill No. 432:

YEAS—38.

NAYS—Ellison, Goedhart, Hickey, Livermore—4.

Senate Bill No. 432 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that Assembly Bill No. 222 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 497.

Bill read third time.

Roll call on Assembly Bill No. 497:

YEAS—42.

NAYS—None.

Assembly Bill No. 497 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 511.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 511:

YEAS—36.

NAYS—Ellison, Hansen, Kite, McArthur, Munford, Stewart—6.

Assembly Bill No. 511 having received a constitutional majority,

Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 546.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 546:

YEAS—31.

NAYS—Ellison, Goedhart, Grady, Hambrick, Hammond, Hansen, Hardy, Kite, McArthur, Sherwood, Woodbury—11.

Assembly Bill No. 546 having received a constitutional majority,

Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 32.

Bill read third time.

Roll call on Senate Bill No. 32:

YEAS—42.

NAYS—None.

Senate Bill No. 32 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 34.

Bill read third time.

Roll call on Senate Bill No. 34:

YEAS—42.

NAYS—None.

Senate Bill No. 34 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 82.

Bill read third time.

Roll call on Senate Bill No. 82:

YEAS—42.

NAYS—None.

Senate Bill No. 82 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

## MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bill No. 384 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

## GENERAL FILE AND THIRD READING

Senate Bill No. 472.

Bill read third time.

Roll call on Senate Bill No. 472:

YEAS—42.

NAYS—None.

Senate Bill No. 472 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 268.

Bill read third time.

Remarks by Assemblyman Daly.

Roll call on Senate Bill No. 268:

YEAS—28.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood—14.

Senate Bill No. 268 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 171.

Bill read third time.

Remarks by Assemblywoman Benitez-Thompson.

Roll call on Assembly Bill No. 171:

YEAS—42.

NAYS—None.

Assembly Bill No. 171 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 7:35 p.m.

## ASSEMBLY IN SESSION

At 7:38 p.m.

Mr. Speaker presiding.

Quorum present.

## GENERAL FILE AND THIRD READING

Senate Bill No. 126.

Bill read third time.

Roll call on Senate Bill No. 126:

YEAS—40.

NAYS—Carlton, Pierce—2.

Senate Bill No. 126 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

## MOTIONS, RESOLUTIONS AND NOTICES

## NOTICE OF EXEMPTION

May 30, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 159.

RICK COMBS

*Fiscal Analysis Division*

Assemblyman Conklin moved that Senate Bill No. 159 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Conklin moved that the Assembly recess until 8:30 p.m.

Motion carried.

Assembly in recess at 7:41 p.m.

## ASSEMBLY IN SESSION

At 10:06 p.m.

Madam Speaker pro Tempore presiding.

Quorum present.

## MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 48 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 149 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 98 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 267 be taken from the General File and placed at the top of the General File.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 289 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Atkinson moved to withdraw Amendment 715 to Senate Bill No. 289.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 289.

Bill read third time.

The following amendment was proposed by Assemblyman Atkinson:

Amendment No. 855.

AN ACT relating to insurance; revising provisions relating to nonadmitted insurance; authorizing the Commissioner of Insurance to enter ~~the Nonadmitted Insurance Multi-State Agreement;~~ **into a multi-state agreement concerning nonadmitted insurance;** revising provisions relating to the assessment and disbursement of taxes on nonadmitted insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain insurance coverages that cannot be procured from authorized insurers in Nevada, known as surplus lines, may be obtained from unauthorized insurers if certain conditions are met. (NRS 685A.040) Additionally, a tax is assessed on the premiums charged for surplus lines coverages. (NRS 685A.175, 685A.180) On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act, of which the Nonadmitted and Reinsurance Reform Act (NRRA) was a part, was signed into law. (Pub. L. No. 111-203, 124 Stat. 1376) The NRRA authorizes the states to participate in a multi-state agreement to allocate premium tax proceeds for nonadmitted insurance on multi-state risks amongst the states and prohibits any state other than the insured's home state from collecting premium taxes on nonadmitted insurance. The NRRA also prohibits any state other than the insured's home state from regulating the placement of nonadmitted insurance and from requiring a surplus lines broker to be licensed. (15 U.S.C. §§ 8201 et seq.)

This bill makes various changes to existing law to conform to the NRRA. **Sections 17, 32 and 33** of this bill authorize the Commissioner to enter into ~~the Nonadmitted Insurance Multi-State Agreement;~~ **a multi-state agreement concerning nonadmitted insurance** and to provide for the

payment of premium tax to and disbursement of premium tax from the clearinghouse established through the ~~{Nonadmitted Insurance Multi-State Agreement.}~~ **multi-state agreement.**

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

**Section 1.** NRS 680B.040 is hereby amended to read as follows:

680B.040 1. Every insured ~~{in}~~ ***for whom*** this State ***is the home state as defined in section 8 of this act*** who procures or causes to be procured or continues or renews insurance in an unauthorized alien or foreign insurer, or any self-insurer in this State who ~~{so}~~ procures or continues excess loss, catastrophe or other insurance, ~~{upon a subject of insurance resident, located or to be performed within this State,}~~ other than insurance procured through a surplus line broker pursuant to chapter 685A of NRS or exempted from that chapter, shall within ~~{30}~~ **45** days after the ~~{date}~~ ***end of each quarter in which*** such insurance was so procured, continued or renewed, file a written report ~~{with the Department of Taxation on forms prescribed by the Executive Director of the Department of Taxation in cooperation with}~~ ***as directed by the Commissioner pursuant to chapter 685A of NRS*** and furnished to such an insured upon request. The report must show:

- (a) The name and address of the insured or insureds.
- (b) The name and address of the insurer.
- (c) The subject of the insurance.
- (d) A general description of the coverage.
- (e) The premium currently charged therefor.
- (f) Such additional pertinent information as is reasonably requested by the Commissioner or the ~~{Executive Director of the Department of Taxation,}~~ ***designee of the Commissioner.***

➡ If any such insurance covers also a subject of insurance resident, located or to be performed outside of this State ~~{}~~ ***for which this State is the home state of the insured as defined in section 8 of this act,*** for the purposes of this section a proper pro rata portion of the entire premium payable for all such insurance must be allocated ~~{as to the subjects of insurance resident, located or to be performed in this State,}~~ ***and disbursed pursuant to the provisions of chapter 685A of NRS.***

2. ~~{Any insurance in an unauthorized insurer procured through negotiations or an application in whole or in part occurring or made within or from within this State, or for which premiums in whole or in part are remitted directly or indirectly from within this State, shall be deemed to be insurance procured or continued or renewed in this State within the intent of subsection 1.}~~

~~3.1~~ For the general support of the government of this State there is levied upon the obligation, chose in action or right represented by the premium charged or payable for such insurance a tax at the rate prescribed in NRS ~~680B.027, 685A.175 and 685A.180~~. The insured shall withhold the amount of the tax from the amount of premium charged by and otherwise payable to the insurer for such insurance, and within 30 days after the insurance was so procured, continued or renewed, and coincidentally with the filing of the report provided for in subsection 1, the insured shall pay the amount of the tax ~~to the State Treasurer through the Department of Taxation.~~

~~4.1~~ *as directed by the Commissioner*

3. If the insured fails to withhold from the premium the amount of tax levied in this section, the insured is liable for the amount of the tax and shall pay it ~~to the Department of Taxation~~ *as directed by the Commissioner* within the time stated in subsection ~~3.~~

~~5.1~~ 2.

4. If the insured fails to pay the tax imposed by this section, the insured shall in addition to any other applicable penalty pay a penalty of not more than 10 percent of the amount of the tax which is owed, as determined by the Department of Taxation, in addition to the tax, plus interest at the rate of 1.5 percent per month, or fraction of a month, from the date on which the tax should have been paid until the date of payment.

~~6.1~~ 5. The tax is collectible from the insured by civil action brought by the Department of Taxation, and by the seizure, distraint and sale of any property of the insured situated in this State.

~~7.1~~ 6. This section does not abrogate or modify any other provision of this Code.

~~8.1~~ 7. This section does not apply to life or disability insurances.

~~9.1~~ 8. The provisions of this section do not prohibit the procurement of insurance from an unauthorized alien or foreign insurer by a person in accordance with the requirements of subsection 9 of NRS 680A.070.

~~10. The Department of Taxation shall report to the Commissioner concerning independently procured insurance transactions reported to the Department of Taxation pursuant to this section.~~

**Sec. 2.** NRS 680C.110 is hereby amended to read as follows:

680C.110 1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.

2. A fee required by this section must be:

(a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;

(b) If an annual fee, paid on or before March 1 of every year;

(c) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and

(d) Deposited in the Fund for Insurance Administration and Enforcement created by NRS 680C.100.

3. The fees required pursuant to this section are not refundable.

4. The following fees must be paid by the following persons to the Commissioner:

(a) Associations of self-insured private employers, as defined in NRS 616A.050:

(1) Initial fee..... \$1,300

(2) Annual fee ..... \$1,300

(b) Associations of self-insured public employers, as defined in NRS 616A.055:

(1) Initial fee ..... \$1,300

(2) Annual fee ..... \$1,300

(c) External review organizations, as provided for in NRS 616A.469 or 683A.371, or both:

(1) Initial fee..... \$60

(2) Annual fee..... \$60

(d) Insurers not otherwise provided for in this subsection:

(1) Initial fee..... \$1,300

(2) Annual fee..... \$1,300

(e) Producers of insurance, as defined in NRS 679A.117:

(1) Initial fee..... \$60

(2) Triennial fee..... \$60

(f) Accredited reinsurers, as provided for in NRS 681A.160:

(1) Initial fee..... \$1,300

(2) Annual fee ..... \$1,300

(g) Intermediaries, as defined in NRS 681A.330:

(1) Initial fee..... \$60

(2) Triennial fee ..... \$60

(h) Reinsurers, as defined in NRS 681A.370:

(1) Initial fee ..... \$1,300

(2) Annual fee..... \$1,300

(i) Administrators, as defined in NRS 683A.025:

(1) Initial fee..... \$60

(2) Triennial fee ..... \$60

(j) Managing general agents, as defined in NRS 683A.060:

(1) Initial fee ..... \$60

(2) Triennial fee ..... \$60

(k) Agents who perform utilization reviews, as defined in NRS 683A.376:



|                                                                                              |         |
|----------------------------------------------------------------------------------------------|---------|
| (1) Initial fee .....                                                                        | \$60    |
| (2) Annual fee .....                                                                         | \$60    |
| (l) Insurance consultants, as defined in NRS 683C.010:                                       |         |
| (1) Initial fee .....                                                                        | \$60    |
| (2) Triennial fee .....                                                                      | \$60    |
| (m) Independent adjusters, as defined in NRS 684A.030:                                       |         |
| (1) Initial fee .....                                                                        | \$60    |
| (2) Triennial fee.....                                                                       | \$60    |
| (n) Public adjusters, as defined in NRS 684A.030:                                            |         |
| (1) Initial fee .....                                                                        | \$60    |
| (2) Triennial fee .....                                                                      | \$60    |
| (o) Associate adjusters, as defined in NRS 684A.030:                                         |         |
| (1) Initial fee .....                                                                        | \$60    |
| (2) Triennial fee.....                                                                       | \$60    |
| (p) Motor vehicle physical damage appraisers, as defined<br>in NRS 684B.010:                 |         |
| (1) Initial fee .....                                                                        | \$60    |
| (2) Triennial fee .....                                                                      | \$60    |
| (q) Brokers, as defined in <del>NRS 685A.030</del> <b>section 5 of this act:</b>             |         |
| (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<br>of chapter 689 of NRS:  |         |
| (1) Initial fee .....                                                                        | \$60    |
| (2) Annual fee .....                                                                         | \$60    |
| (x) Agents for prepaid funeral contracts subject to the<br>provisions of chapter 689 of NRS: |         |

- (1) Initial fee ..... \$60
- (2) Annual fee ..... \$60
- (y) Sellers of prepaid burial contracts subject to the provisions  
of chapter 689 of NRS:
  - (1) Initial fee ..... \$60
  - (2) Annual fee ..... \$60
- (z) Sellers of prepaid funeral contracts subject to the provisions of chapter  
689 of NRS:
  - (1) Initial fee ..... \$60
  - (2) Annual 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<br>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    |
| (1) Initial fee .....                                                             | \$60    |
| (2) Triennial fee .....                                                           | \$60    |
| (rr) Bail solicitors, as defined in NRS 697.060:                                  |         |
| (1) Initial fee .....                                                             | \$60    |
| (2) Triennial fee .....                                                           | \$60    |
| (ss) General agents, as defined in NRS 697.070:                                   |         |
| (1) Initial fee .....                                                             | \$60    |
| (2) Triennial fee .....                                                           | \$60    |

**Sec. 3.** NRS 683A.321 is hereby amended to read as follows:

683A.321 1. A producer of insurance shall not act as an agent unless he or she is appointed as an agent by the insurer. A producer who is not acting as an agent is a broker who does not need to be appointed.

2. To appoint a producer of insurance as its agent, an insurer must file, in a form approved by the Commissioner, a notice of appointment within 15 days after the contract is executed or the first application for insurance is submitted. An insurer may appoint a producer to act as agent for all or some insurers within its holding company or group by filing a single notice of appointment. A notice of appointment may include several agents.

3. Upon receipt of a notice of appointment, the Commissioner shall determine within 30 days whether the producer of insurance is eligible for appointment. If the producer of insurance is not, the Commissioner shall so notify the insurer within 5 days after the determination is made.

4. An insurer shall pay an appointment fee and remit an annual renewal fee for each producer of insurance appointed as its agent. A payment or remittance may include fees for several agents.

5. A broker shall not place insurance, other than life insurance, health insurance, annuity contracts or coverage written pursuant to the ~~Surplus Lines~~ **Nonadmitted Insurance** Law set forth in chapter 685A of NRS, that covers property or risks within this state unless the broker does so with a licensed agent of an authorized insurer.

6. A producer who is acting as an agent may also act as and be a broker with regard to insurers for which he or she is not acting as an agent. The sole relationship between an insurer and a broker who is appointed as an agent by the insurer as to any transactions arising during the period in which the broker is appointed as an agent is that of insurer and agent, and not insurer and broker.

7. As used in this section:

(a) "Agent" means a producer of insurance who is compensated by the insurer and sells, solicits or negotiates insurance for the insurer.

(b) "Broker" means a producer of insurance who:

(1) Is not an agent of an insurer;

(2) Solicits, negotiates or procures insurance on behalf of an insured or prospective insured; and

(3) Does not have the power, by his or her own actions as a broker, to obligate an insurer upon any risk or with reference to any transaction of insurance.

**Sec. 4.** Chapter 685A of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 17, inclusive, of this act.

**Sec. 5.** *"Broker" means a surplus lines broker duly licensed as such under this chapter.*

**Sec. 6. 1.** *"Exempt commercial purchaser" means any person or political subdivision of this State purchasing commercial insurance:*

*(a) Who, at the time of placement, employs or retains a qualified risk manager to negotiate insurance coverage;*

*(b) Who, at the time of placement, has paid aggregate nationwide commercial property and casualty insurance premiums of more than \$100,000 in the immediately preceding 12 months; and*

*(c) Who, at the time of placement, satisfies one of the following conditions:*

*(1) Possesses a net worth of more than \$20,000,000;*

*(2) Generates annual revenues of more than \$50,000,000;*

*(3) Employs more than 500 full-time or full-time equivalent employees or is a member of an affiliated group that employs more than 1,000 employees in the aggregate;*

*(4) Is a nonprofit organization or public entity that generates annual budgeted expenditures of \$30,000,000 or more; or*

*(5) Is a city whose population is 25,000 or more or a county whose population is 20,000 or more.*

*2. The amounts set forth in subparagraphs (1), (2) and (4) of paragraph (c) of subsection 1 must be adjusted on or before January 1, 2015, and every 5 years thereafter to reflect inflation, as measured by the average percentage of increase or decrease in the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics for the preceding 5 years. The Commissioner shall determine the amount of the increase or decrease required by this subsection and establish the adjusted amounts to take effect on January 1 of that year.*

*Sec. 7. "Export" means to place insurance in an unauthorized insurer under this chapter.*

*Sec. 8. "Home state" means:*

*1. For an insured:*

*(a) The state in which the insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or*

*(b) If 100 percent of the insured risk is located outside of the state determined pursuant to paragraph (a), the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.*

*2. If more than one insured from an affiliated group is a named insured on a single nonadmitted insurance contract, the state determined pursuant to paragraph (a) of subsection 1 for the member of the affiliated group that has the largest percentage of premium attributed to it under the nonadmitted insurance contract.*

*3. For a policy of group insurance:*

*(a) If the group policyholder pays 100 percent of the premium from its own funds, the state determined pursuant to paragraph (a) of subsection 1 for the group policyholder.*

*(b) If the group policyholder does not pay 100 percent of the premium from its own funds, the state determined pursuant to paragraph (a) of subsection 1 for the group member.*

*Sec. 9. "Independently procured insurance" means insurance procured directly by an insured from a nonadmitted insurer.*

*Sec. 10. "Multi-state risk" means a risk covered by a nonadmitted insurer to which the insured is exposed in more than one state.*

*Sec. 11. "Nonadmitted insurance" means any property and casualty insurance permitted to be placed directly or through a broker with a*

*nonadmitted insurer eligible to accept such insurance. The term includes both independently procured insurance and surplus lines insurance.*

Sec. 12. “Nonadmitted insurer” means an insurer not authorized to engage in the business of insurance in this State. The term does not include a risk retention group as that term is defined in 15 U.S.C. § 3901(a)(4).

Sec. 13. “Principal place of business” means, for the purpose of determining the home state of the insured:

1. The state where the insured maintains its headquarters and where the insured’s high-level officers direct, control and coordinate its business activities;

2. If the insured’s high-level officers direct, control and coordinate its business activities in more than one state, the state in which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated; or

3. If the insured’s high-level officers direct, control and coordinate its business activities outside of any state, the state to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.

Sec. 14. “Principal residence” means, for the purpose of determining the home state of the insured:

1. The state where the insured resides for the greatest number of days during a calendar year; or

2. If the insured’s principal residence is located outside of any state, the state to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.

Sec. 15. “Surplus lines insurance” means insurance procured by an insured through a broker with a nonadmitted insurer eligible to accept such insurance.

Sec. 16. Except as otherwise provided in NRS 685A.020, this chapter applies to nonadmitted insurance.

Sec. 17. 1. The Commissioner may, with the approval of the State Board of Examiners, on behalf of the State, ~~enter into the Nonadmitted Insurance Multi-State Agreement or any other~~ a multi-state agreement to preserve the ability of this State to collect premium tax on multi-state risks.

2. If, within 18 months after the Commissioner enters into ~~an~~ a multi-state agreement pursuant to subsection 1, the Commissioner ~~shall:~~  
~~(a) Adopt the agreement by regulation as soon as is practicable after entering into the agreement; and~~

~~(b) Submit~~ conducts a hearing pursuant to the provisions of chapter 233B of NRS concerning participation in the multi-state agreement, the Commissioner shall submit to the State Board of Examiners and to the

Director of the Legislative Counsel Bureau for transmittal to the Legislature a report ~~[stating that]~~ concerning the findings of the Commissioner ~~[has entered into such an agreement and including the contents of the agreement.]~~ pursuant to the hearing.

3. The State Board of Examiners shall review and may accept the findings of the Commissioner. If the Commissioner finds and the State Board of Examiners accepts that because of the effect of the multi-state agreement on the gross receipt of premiums collected in this State:

(a) It is in the best interest of the State to continue to participate in the multi-state agreement, the State Board of Examiners may approve the State's continued participation in the multi-state agreement.

(b) It is not in the best interest of the State to continue to participate in the multi-state agreement, the State Board of Examiners may approve the State's withdrawal from the multi-state agreement.

Sec. 18. ~~The Commissioner~~ ~~[shall]~~ may adopt regulations as necessary ~~for~~.

~~1. To effectuate the Nonadmitted Insurance Multi State Agreement or any other multi state agreement for the purposes of complying with federal law, facilitating the collection, allocation and disbursement of premium taxes attributable to the placement of nonadmitted insurance, providing for a uniform method of allocation and reporting among nonadmitted insurance risk classifications and sharing information among states relating to nonadmitted insurance premium taxes.~~

~~2. For participation in the clearinghouse established through the Nonadmitted Insurance Multi State Agreement or any other such multi state agreement for the purposes of collecting and disbursing to states any funds collected as the home state and applicable to properties, risks or exposures located or to be performed outside of this State. To the extent that a portion of the properties, risks or exposures are located or to be performed in a state that has failed to enter the Nonadmitted Insurance Multi State Agreement or any other such multi state agreement, the net premium tax collected must be retained by this State.~~

~~3. For adoption of the allocation schedule established through the Nonadmitted Insurance Multi State Agreement or any other such multi state agreement for the purpose of allocating risk and computing the tax due on the portion of the premium attributable to each risk classification and to each state where properties, risks or exposures are located.~~

~~4. To~~ to ensure compliance with federal law relating to nonadmitted insurance ~~for~~.

~~5. For the administration of and compliance with the Nonadmitted Insurance Multi State Agreement or any other such multi state agreement.]~~.

**including, without limitation, the Nonadmitted and Reinsurance Reform Act, 15 U.S.C. §§ 8201, et seq.**

**Sec. 19.** NRS 685A.010 is hereby amended to read as follows:

685A.010 This chapter constitutes and may be cited as the ~~{Surplus Lines}~~ **Nonadmitted Insurance** Law.

**Sec. 20.** NRS 685A.020 is hereby amended to read as follows:

685A.020 The ~~{Surplus Lines}~~ **Nonadmitted Insurance** Law shall not apply to reinsurance, or to the following insurances when placed by general lines agents or general lines brokers or surplus lines brokers licensed as such by this state ~~{;}~~ **or when procured directly by an insured from a nonadmitted insurer:**

1. Wet marine and transportation insurance;
2. Insurance of subjects located, resident or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state;
3. Insurance of property and operations of railroads engaged in interstate commerce;
4. Insurance of aircraft of common carriers, or cargo of such aircraft, or against liability, other than employer's liability, arising out of the ownership, maintenance or use of such aircraft; or
5. Insurance of automobile bodily injury and property damage liability risks when written in Mexican insurers and covering in Mexico and not in the United States of America.

**Sec. 21.** NRS 685A.030 is hereby amended to read as follows:

685A.030 As used in this chapter ~~{;~~

~~1. Unless~~ , **unless** the context otherwise requires, ~~{“broker” means a surplus lines broker duly licensed as such under this chapter.~~

~~2. To “export” means to place in an unauthorized insurer under this chapter insurance covering a subject of insurance resident, located or to be performed in Nevada.~~ **the words and terms defined in sections 5 to 15, inclusive, of this act have the meanings ascribed to them in those sections.**

**Sec. 22.** NRS 685A.040 is hereby amended to read as follows:

685A.040 If **this State is the insured's home state** and certain insurance coverages cannot be procured from authorized insurers, such coverages, designated in this chapter as ~~{“surplus lines,”}~~ **nonadmitted insurance**, may be procured from unauthorized insurers, subject to the following conditions:

1. The insurance must be procured through a ~~{surplus lines}~~ broker licensed as such under this chapter ~~{;}~~ **or procured by an insured directly from a nonadmitted insurer as permitted by law.**
2. ~~{The}~~ **Except as otherwise provided in subsection 5, the** full amount of insurance required must not be procurable ~~{;}~~ **from an insurer authorized**



*to engage in the business of insurance in this State*, after diligent effort has been made to do so.

3. The insurance must not be so exported for the purpose of procuring it at a premium rate lower than would be accepted by any authorized insurer; difference in rates alone will not support the export of the insurance if any authorized insurer is able and willing to carry the risk.

4. Differences, bearing directly upon the cost of insurance, in the terms of policies which otherwise provide substantially the same coverage will not support the export of the insurance.

5. *A broker is not required to make a diligent effort to determine whether the full amount or type of insurance can be obtained from admitted insurers when the broker is seeking to procure or place nonadmitted insurance for an exempt commercial purchaser if:*

*(a) The broker procuring or placing the nonadmitted insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and*

*(b) The exempt commercial purchaser has subsequently requested in writing for the broker to procure or place such insurance from a nonadmitted insurer.*

**Sec. 23.** NRS 685A.050 is hereby amended to read as follows:

685A.050 1. At the time of effecting any surplus lines insurance *for which this State is the home state*, the broker shall ~~execute an affidavit~~ within 90 days after such insurance is so effected, submit a report, in the form prescribed or accepted by the Commissioner, setting forth facts from which it can be determined whether such insurance is eligible for export under NRS 685A.040.

2. The broker shall ~~file this affidavit~~ *keep in his or her office the report prepared pursuant to subsection 1 along* with the report of coverage and any other information the Commissioner requires. ~~Within 90 days after the insurance is so effected, as required under regulations adopted pursuant to NRS 685A.210.~~

3. *The report prepared pursuant to subsection 1 must not be removed from the office of the broker and must be open to examination by the Commissioner or a representative of the Commissioner at all times within 5 years after issuance of the coverage to which it relates.*

**Sec. 24.** NRS 685A.060 is hereby amended to read as follows:

685A.060 1. The Commissioner may by order declare eligible for export generally and without compliance with subsections 2, 3 and 4 of NRS 685A.040 and NRS 685A.050, any class or classes of insurance coverage or risk for which the Commissioner finds that there is not a reasonable or adequate market among authorized insurers either as to acceptance of the

risk, contract terms, or premium or premium rate. Any such order shall continue in effect during the existence of the conditions upon which predicated, but subject to earlier termination by the Commissioner.

2. ~~The~~ ***For surplus lines insurance, the*** broker shall file with or as directed by the Commissioner a memorandum as to each such coverage placed by the broker in an unauthorized insurer, in such form and context as the Commissioner may reasonably require for the identification of the coverage and determination of the tax payable to the State relative thereto.

3. The broker, or a licensed Nevada agent of the authorized insurer or a general lines broker, may also place with authorized insurers any insurance coverage made eligible for export generally under subsection 1, and without regard to rate or form filings which may otherwise be applicable to the authorized insurer. As to coverages so placed in an authorized insurer the premium tax thereon shall be reported and paid by the insurer as required generally under chapter 680B of NRS.

**Sec. 25.** NRS 685A.070 is hereby amended to read as follows:

685A.070 1. A broker shall not knowingly place surplus lines insurance with an insurer which is unsound financially or ineligible pursuant to this section.

2. ~~Except~~ ***With respect to nonadmitted insurance for insureds for which this State is the home state, except*** as otherwise provided in this section, an insurer is not eligible to accept surplus lines ***or independently procured*** risks pursuant to this chapter unless it has ***capital and*** surplus ~~as to policyholders~~ ***or its equivalent*** in an amount of not less than \$15,000,000 ~~and, if~~ ***or the minimum capital and surplus requirements pursuant to NRS 680A.120, whichever is greater.***

3. ***The requirements of subsection 2 may be satisfied by an insurer possessing less than the minimum capital and surplus upon an affirmative finding of acceptability by the Commissioner. The finding must be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, market availability and company record and reputation within the industry. The Commissioner shall not make an affirmative finding of acceptability when the nonadmitted insurer's capital and surplus is less than \$4,500,000.***

4. ***A broker shall not place surplus lines insurance with an alien insurer, unless the alien insurer is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the National Association of Insurance Commissioners or, if the alien insurer is not listed on the Quarterly Listing of Alien Insurers, it has and maintains in a bank or trust company which is a member of the United States Federal Reserve System a trust fund established pursuant to terms that are reasonably***

adequate to protect all of its policyholders in the United States. Such a trust fund must not have an expiration date which is at any time less than 5 years in the future, on a continuing basis. In the case of:

(a) A single alien insurer, such a trust fund must not be less than the greater of \$5,400,000 or 30 percent of the gross liabilities of the alien insurer for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance, not to exceed \$60,000,000, to be determined annually on the basis of accounting practices and procedures that are substantially equivalent to the accounting practices and procedures applicable in this State as of December 31 of the year immediately preceding the date of the determination where:

(1) The liabilities are maintained in an irrevocable trust account in a qualified financial institution in the United States, on behalf of policyholders in the United States, consisting of cash, securities, letters of credit or any other investments of substantially the same character and quality as investments that are eligible investments pursuant to chapter 682A of NRS for the capital and statutory reserves of admitted insurers to write like kinds of insurance in this State. The trust fund, which must be included in any calculation of capital and surplus or its equivalent, must comply with the requirements set forth in the Standard Trust Agreement required for listing with the International Insurers Department of the National Association of Insurance Commissioners;

(2) The alien insurer may request approval by the Commissioner to use the trust fund to pay any valid claim against a surplus line if the balance of the trust fund is not, during any period, less than \$5,400,000 or 30 percent of the alien insurer's current gross liabilities for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance; and

(3) In calculating the amount of the trust fund required by this subsection, credit must be given for any deposits for any surplus lines that are separately required and maintained within a state or territory of the United States, not to exceed the amount of the alien insurer's loss and loss adjustment reserves maintained in that state or territory.

(b) A group of insurers which includes individual unincorporated insurers, such a trust fund must not be less than \$100,000,000.

(c) A group of incorporated insurers under common administration, such a trust fund must not be less than \$100,000,000. Each insurer within the group must individually maintain capital and surplus of not less than \$25,000,000. The group of incorporated insurers must:

(1) Operate under the supervision of the Department of Trade and Industry of the United Kingdom;

(2) Possess aggregate policyholders surplus of \$10,000,000,000, which must consist of money in trust in an amount not less than the assuming insurers' liabilities attributable to insurance written in the United States; and

(3) Maintain a joint trusteed surplus of which \$100,000,000 must be held jointly for the benefit of United States ceding insurers of any member of the group.

~~[(d) An insurance exchange created by the laws of a state, the insurance exchange shall have and maintain a trust fund in an amount of not less than \$75,000,000 or have a surplus as to policyholders in an amount of not less than \$75,000,000. If an insurance exchange maintains money for the protection of all policyholders, each syndicate shall maintain minimum capital and surplus of not less than \$15,000,000 and must qualify separately to be eligible for the acceptance of surplus lines risks pursuant to this chapter. The Commissioner may require larger trust funds or surplus as to policyholders than those set forth in this section if, in the judgment of the Commissioner, the volume of business being transacted or proposed to be transacted warrants larger amounts.]~~

~~3.—An insurer is not eligible to write surplus lines of insurance unless it has established a reputation for financial integrity and satisfactory practices in underwriting and handling claims. In addition, a]~~

~~5. A foreign insurer must be authorized in the state of its domicile to write the kinds of insurance which it intends to write in Nevada [—~~

~~4.—The Commissioner may from time to time compile or approve a list of all surplus lines insurers deemed by the Commissioner to be eligible currently, and may mail a copy of the list to each broker at his or her office last of record with the Commissioner. To be placed on the list, a surplus lines insurer must file an application with the Commissioner. The application must be accompanied by a nonrefundable fee of \$2,450 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110. To remain on the list, a surplus lines insurer must pay, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110. This subsection does not require the Commissioner to determine the actual financial condition or claims practices of any unauthorized insurer. The status of eligibility, if granted by the Commissioner, indicates only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the Commissioner has no credible evidence to the contrary. While any such list is in effect, the broker shall restrict to the insurers so listed all surplus lines business placed by the broker.] and for which this State is the home state of the insured.~~

Sec. 26. NRS 685A.090 is hereby amended to read as follows:

685A.090 Each insurance contract procured and delivered as a ~~surplus lines~~ **nonadmitted** coverage pursuant to this chapter must have conspicuously stamped upon it:

This insurance contract is issued pursuant to the Nevada insurance laws by an insurer neither licensed by nor under the supervision of the Division of Insurance of the Department of Business and Industry of the State of Nevada. If the insurer is found insolvent, a claim under this contract is not covered by the Nevada Insurance Guaranty Association Act.

**Sec. 27.** NRS 685A.100 is hereby amended to read as follows:

685A.100 Insurance contracts procured as ~~surplus lines~~ **nonadmitted** coverage from unauthorized insurers in accordance with this chapter shall be fully valid and enforceable as to all parties, and shall be given recognition in all matters and respects to the same effect as like contracts issued by authorized insurers.

**Sec. 28.** NRS 685A.110 is hereby amended to read as follows:

685A.110 1. As to a surplus lines risk which has been assumed by an unauthorized insurer pursuant to the ~~Surplus Lines~~ **Nonadmitted Insurance** Law, and if the premium thereon has been received by the surplus lines broker who placed such insurance, in all questions thereafter arising under the coverage between the insurer and the insured the insurer shall be deemed to have received the premium due to it for such coverage; and the insurer shall be liable to the insured for losses covered by such insurance, and for unearned premiums which may become payable to the insured upon cancellation of such insurance, whether or not in fact the broker is indebted to the insurer with respect to such insurance or for any other cause.

2. Each unauthorized insurer assuming a surplus lines risk under the ~~Surplus Lines~~ **Nonadmitted Insurance** Law shall be deemed thereby to have subjected itself to the terms of this section.

**Sec. 29.** NRS 685A.120 is hereby amended to read as follows:

685A.120 1. No person may act as, hold himself or herself out as or be a surplus lines broker with respect to subjects of insurance ~~resident, located or to be performed in this State or elsewhere~~ **for which this State is the insured's home state** unless the person is licensed as such by the Commissioner pursuant to this chapter.

2. Any person who has been licensed by this State as a producer of insurance for general lines for at least 6 months, or has been licensed in another state as a surplus lines broker and continues to be licensed in that state, and who is deemed by the Commissioner to be competent and trustworthy with respect to the handling of surplus lines may be licensed as a surplus lines broker upon:

(a) Application for a license and payment of all applicable fees for a license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account created by NRS 679B.305;

(b) Submitting the statement required pursuant to NRS 685A.127; and

(c) Passing any examination prescribed by the Commissioner on the subject of surplus lines.

3. An application for a license must be submitted to the Commissioner on a form designated and furnished by the Commissioner. The application must include the social security number of the applicant.

4. A license issued pursuant to this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. The license may be renewed upon submission of the statement required pursuant to NRS 685A.127 and payment of all applicable fees for renewal and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account created by NRS 679B.305 to the Commissioner on or before the last day of the month in which the license is renewable.

5. A license which is not renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by the Commissioner within 30 days after the expiration of the license if the request is accompanied by:

(a) The statement required pursuant to NRS 685A.127;

(b) All applicable fees for renewal;

(c) A penalty in an amount that is equal to 50 percent of all applicable fees for renewal, except for any fee required pursuant to NRS 680C.110; and

(d) A fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account created by NRS 679B.305.

**Sec. 30.** NRS 685A.140 is hereby amended to read as follows:

685A.140 1. In addition to other grounds therefor, the Commissioner may suspend or revoke any surplus lines broker's license:

(a) If the broker fails to file the ~~annual~~ **quarterly** statement or to remit the tax as required by NRS ~~685A.170~~ **685A.175** and 685A.180;

(b) If the broker fails to maintain an office in this state or in the state where the broker was issued a license as a resident broker, or to keep the records, or to allow the Commissioner to examine his or her records as required by this chapter, or if the broker removes his or her records from the state; or

(c) If **this State is the insured's home state and** the broker places a surplus lines coverage in an insurer other than as authorized under this chapter.

2. Upon suspending or revoking the broker's surplus lines license the Commissioner may also suspend or revoke all other licenses of or as to the same individual under this Code.

**Sec. 31.** NRS 685A.160 is hereby amended to read as follows:

685A.160 1. Each broker shall keep in his or her office a full and true record of each surplus lines coverage procured by the broker ~~{ }~~ **for which this State is the insured's home state**, including a copy of each daily report, if any, a copy of each certificate of insurance issued by the broker, and such of the following items as may be applicable:

- (a) The amount of the insurance;
- (b) The gross premium charged;
- (c) The return premium paid, if any;
- (d) The rate of premium charged upon the several items of property;
- (e) The effective date of the contract, and the terms thereof;
- (f) The name and address of each insurer on the direct risk and the proportion of the entire risk assumed by that insurer if less than the entire risk;
- (g) The name and address of the insured;
- (h) A brief general description of the property or risk insured and where located or to be performed; and
- (i) Any other information as may be required by the Commissioner.

2. The record must not be removed from the office of the broker and must be open to examination by the Commissioner or a representative of the Commissioner at all times within 5 years after issuance of the coverage to which it relates.

**Sec. 32.** NRS 685A.175 is hereby amended to read as follows:

685A.175 ~~{Within 45 days after the end of each calendar quarter, a}~~

1. ~~A broker who has written coverage {which will require the broker to pay more than \$1,000 in taxes for coverage written in that calendar quarter} for which this State is the insured's home state shall pay , by the date described in subsection 2, the tax for {the} each calendar quarter {to} as directed by the Commissioner and shall file {with} as directed by the Commissioner {, or with a nonprofit organization of brokers in accordance with regulations adopted by the Commissioner pursuant to NRS 685A.210,} a copy of a quarterly report which includes an accounting of:~~

- ~~{1.} (a) The aggregate gross premiums for the quarter;~~
- ~~{2.} (b) The aggregate of the return premiums received;~~
- ~~{3.} (c) The amount of tax remitted to the Commissioner; and~~
- ~~{4.} (d) The {amount of aggregate tax remitted to each other state for which an allocation is made pursuant to NRS 680B.030.} distribution of the exposures of insureds by state in accordance with the requirements of {the Nonadmitted Insurance Multi-State Agreement or} any {other such} multi-state agreement ~~{ }~~ entered into by the Commissioner pursuant to section 17 of this act.~~

➔ The report must be on a form approved by the Commissioner.

**2. The tax filings and payments required by subsection 1 must be submitted by:**

**(a) February 15 for the calendar quarter ending the preceding December 31.**

**(b) May 15 for the calendar quarter ending the preceding March 31.**

**(c) August 15 for the calendar quarter ending the preceding June 30.**

**(d) November 15 for the calendar quarter ending the preceding September 30.**

**Sec. 33.** NRS 685A.180 is hereby amended to read as follows:

685A.180 1. ~~{On}~~ **Except as otherwise provided in subsection 6, on or before ~~{March 1 of each year,}~~ the date described in subsection 2 of NRS 685A.175 for each quarter,** each broker shall pay ~~{to}~~ **as directed by** the Commissioner a tax on surplus lines coverages **for which this State is the insured's home state** written by the broker in unauthorized insurers during the preceding calendar ~~{year}~~ **quarter** at the same rate of tax as imposed by law on the premiums of similar coverages written by authorized insurers ~~{If a broker has paid any taxes pursuant to NRS 685A.175, the broker shall deduct the total paid from the tax due and pay the remainder, if any.}~~ **, in addition to any fees imposed pursuant to NRS 685A.075.**

**2. Except as otherwise provided in subsection 6, on or before the date described in subsection 2 of NRS 685A.175 for each quarter, each insured for which this State is the home state shall pay as directed by the Commissioner a tax on independently procured insurance written for the insured by an unauthorized insurer during the preceding calendar quarter at the same rate of tax as imposed by law on the premiums of similar coverages written by authorized insurers, in addition to any fees imposed pursuant to NRS 685A.075.**

**3. For the purposes of this section, the "premium" on surplus lines coverages includes:**

**(a) The gross amount charged by the insurer for the insurance, less any return premium;**

**(b) Any fee allowed by NRS 685A.155;**

**(c) Any policy fee;**

**(d) Any membership fee;**

**(e) Any inspection fee; and**

**(f) Any other fees or assessments charged by the insurer as consideration for the insurance.**

➡ Premium does not include any additional amount charged for state or federal tax, or for ~~{filing}~~ **executing or completing** affidavits or reports of coverage.

~~{3. If a contract for surplus lines insurance covers risks or exposures only partially in this State, the tax so payable must be computed on that portion of~~



the premium properly allocable to the risks or exposures located in this State. The Commissioner may adopt regulations which establish standards for allocating premiums for risks located in this State in the same manner as premiums are allocated pursuant to NRS 680B.030.]

4. ~~[The Commissioner shall promptly deposit all]~~ *All taxes collected as directed by the Commissioner pursuant to this section and not intended for disbursement to other states by ~~[the]~~ a clearinghouse established through ~~[the Nonadmitted Insurance Multi State Agreement or in accordance with]~~ any ~~[other such]~~ multi-state agreement entered into by the Commissioner pursuant to section 17 of this act must be promptly deposited* with the State Treasurer, to the credit of the State General Fund.

5. A broker who receives a credit for tax paid shall refund to each insured the amount of the credit attributable to the insured when the insurer pays a return premium or within 30 days, whichever is earlier.

6. *If the Commissioner has entered into ~~[the Nonadmitted Insurance Multi State Agreement or any other such]~~ a multi-state agreement ~~[.]~~ pursuant to section 17 of this act, the Commissioner may require that each broker who has written surplus line coverages for multi-state risks for which this State is the insured's home state and each insured for which this State is the home state who has obtained independently procured insurance for multi-state risks pay a premium tax:*

(a) *For the portion of the premium allocated to Nevada, at the tax rate applicable to nonadmitted insurance pursuant to this chapter;*

(b) *For the portion of the premium allocated to any other state that also participates in the ~~[Nonadmitted Insurance Multi State Agreement or any other such]~~ multi-state agreement, at the tax rate applicable to nonadmitted insurance as established by that state; and*

(c) *For the portion of the premium allocated to any other state that does not participate in the ~~[Nonadmitted Insurance Multi State Agreement or any other such]~~ multi-state agreement, at the tax rate applicable to nonadmitted insurance pursuant to this chapter. The tax for this portion of the premium must be deposited with the State Treasurer, to the credit of the State General Fund, after it is processed by the clearinghouse established through the ~~[Nonadmitted Insurance Multi State Agreement or other similar]~~ multi-state agreement.*

**Sec. 34.** NRS 685A.190 is hereby amended to read as follows:

685A.190 1. A broker who fails to make and file the ~~[annual]~~ *quarterly* statement required pursuant to NRS ~~[685A.170 before April 1 after the due date of the statement.]~~ *685A.175* is liable for a penalty of \$500.

2. Except as otherwise provided in this subsection, a broker who fails to pay the tax required by NRS 685A.180 ~~[before April 1 after the date upon which the tax is due]~~ is liable:

(a) If the aggregate amount of the tax owed by the broker is more than \$50, for a penalty in the first year of delinquency in the amount of \$1,000 or 125 percent of the delinquent tax, whichever is larger; or

(b) If the aggregate amount of the tax owed by the broker is \$50 or less, for a penalty in the first year of delinquency in an amount equal to the amount of the delinquent tax.

3. Interest must be charged on all penalties imposed pursuant to subsection 2 in an amount equal to the prime rate at the largest bank in the State of Nevada, as ascertained by the Commissioner of Financial Institutions on January 1 of the year in which the tax became due, plus 2 percent. The rate must be adjusted on July 1 and January 1 thereafter. The interest charged must be compounded monthly and must continue to accrue until the penalty and interest are paid in full.

4. The tax may be collected by distraint, or the tax and penalty may be recovered by an action instituted by the Commissioner, in the name of the State, the Attorney General representing the Commissioner, in any court of competent jurisdiction. The penalty, when so collected, must be paid to the State Treasurer for credit to the State General Fund.

5. No proceeding to recover taxes, penalties or fines pursuant to this section may be maintained unless it is commenced by the giving of notice to the person against whom the proceeding is brought within 5 years after the occurrence of the charged act or omission. This limitation does not apply if the Commissioner finds fraudulent or willful evasion of taxes.

**Sec. 35.** NRS 685A.200 is hereby amended to read as follows:

685A.200 1. An unauthorized insurer effecting insurance under the provisions of the ~~{Surplus Lines}~~ ***Nonadmitted Insurance*** Law shall be deemed to be transacting insurance in this state as an unlicensed insurer and may be sued in a district court of this state upon any cause of action arising against it in this state under any insurance contract entered into by it under this chapter.

2. Service of legal process against the insurer may be made in any such action by service of two copies thereof upon the Commissioner or an authorized representative of the Commissioner and payment of the fee specified in NRS 680B.010. The Commissioner or an authorized representative of the Commissioner shall forthwith mail a copy of the process served to the person designated by the insurer in the policy for the purpose by prepaid registered or certified mail with return receipt requested. If no such person is so designated in the policy, the Commissioner or an authorized representative of the Commissioner shall in like manner mail a copy of the process to the broker through whom the insurance was procured, or to the insurer at its principal place of business, addressed to the address of the broker or insurer, as the case may be, last of record with the Commissioner.

Upon service of process upon the Commissioner or an authorized representative of the Commissioner and its mailing in accordance with this subsection, the court shall be deemed to have jurisdiction in personam of the insurer.

3. The defendant insurer has 40 days from the date of service of the summons and complaint upon the Commissioner or an authorized representative of the Commissioner within which to plead, answer or defend any such suit.

4. An unauthorized insurer entering into such an insurance contract shall be deemed thereby to have authorized service of process against it in the manner and to the effect provided in this section. Any such contract, if issued, must contain a provision stating the substance of this section and designating the person to whom the Commissioner or an authorized representative of the Commissioner shall mail process as provided in subsection 2.

5. For the purposes of this section, “process” includes only a summons or the initial documents served in an action. The Commissioner or an authorized representative of the Commissioner is not required to serve any documents after the initial service of process.

**Sec. 36.** NRS 685A.170 is hereby repealed.

**Sec. 37.** This act becomes effective upon passage and approval.

#### TEXT OF REPEALED SECTION

##### **685A.170 Annual statement of broker.**

1. Each broker shall on or before March 1 of each year file with the Commissioner a statement verified by the broker of all surplus lines insurance transacted by the broker during the preceding calendar year. A statement must be filed whether or not the broker has transacted any business during the preceding year.

2. The statement must be on forms as prescribed and furnished by the Commissioner, and must contain such information as the Commissioner may reasonably require.

3. If a broker has filed any reports pursuant to NRS 685A.175, the annual statement must include any necessary reconciliation of the quarterly reports.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 267.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 858.

AN ACT relating to personal information; **authorizing the Office of Information Security of the Department of Information Technology to adopt certain regulations relating to encryption;** revising provisions governing the protection of personal information collected by a data collector; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a data collector from moving any data storage device containing personal information beyond the control of the data collector or its data storage contractor unless the data collector uses encryption to ensure the security of the information. (NRS 603A.215) **Section 5.5 of this bill authorizes the Office of Information Security of the Department of Information Technology, upon receipt of a well-founded petition, to adopt regulations which identify alternative methods or technologies which may be used by a data collector to encrypt certain data.** Section 6 of this bill additionally prohibits a data collector from moving a data storage device which is used by or is a component of a multifunctional device beyond the control of the data collector, its data storage contractor or a person who assumes the obligation of the data collector to protect personal information unless the data collector uses encryption to ensure the security of the information.

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** (Deleted by amendment.)

**Sec. 4.** (Deleted by amendment.)

**Sec. 5.** (Deleted by amendment.)

**Sec. 5.5. Chapter 603A of NRS is hereby amended by adding thereto a new section to read as follows:**

**Upon receipt of a well-founded petition, the Office of Information Security of the Department of Information Technology may, pursuant to chapter 233B of NRS, adopt regulations which identify alternative methods or technologies which may be used to encrypt data pursuant to NRS 603A.215.**

**Sec. 6.** NRS 603A.215 is hereby amended to read as follows:

603A.215 1. If a data collector doing business in this State accepts a payment card in connection with a sale of goods or services, the data collector shall comply with the current version of the Payment Card Industry (PCI) Data Security Standard, as adopted by the PCI Security Standards Council or its successor organization, with respect to those transactions, not later than the date for compliance set forth in the Payment Card Industry

(PCI) Data Security Standard or by the PCI Security Standards Council or its successor organization.

2. A data collector doing business in this State to whom subsection 1 does not apply shall not:

(a) Transfer any personal information through an electronic, nonvoice transmission other than a facsimile to a person outside of the secure system of the data collector unless the data collector uses encryption to ensure the security of electronic transmission; or

(b) Move any data storage device containing personal information beyond the logical or physical controls of the data collector, ~~for~~ its data storage contractor ***or, if the data storage device is used by or is a component of a multifunctional device, a person who assumes the obligation of the data collector to protect personal information,*** unless the data collector uses encryption to ensure the security of the information.

3. A data collector shall not be liable for damages for a breach of the security of the system data if:

(a) The data collector is in compliance with this section; and

(b) The breach is not caused by the gross negligence or intentional misconduct of the data collector, its officers, employees or agents.

4. The requirements of this section do not apply to:

(a) A telecommunication provider acting solely in the role of conveying the communications of other persons, regardless of the mode of conveyance used, including, without limitation:

(1) Optical, wire line and wireless facilities;

(2) Analog transmission; and

(3) Digital subscriber line transmission, voice over Internet protocol and other digital transmission technology.

(b) Data transmission over a secure, private communication channel for:

(1) Approval or processing of negotiable instruments, electronic fund transfers or similar payment methods; or

(2) Issuance of reports regarding account closures due to fraud, substantial overdrafts, abuse of automatic teller machines or related information regarding a customer.

5. As used in this section:

(a) “Data storage device” means any device that stores information or data from any electronic or optical medium, including, but not limited to, computers, cellular telephones, magnetic tape, electronic computer drives and optical computer drives, and the medium itself.

(b) “Encryption” means the protection of data in electronic or optical form, in storage or in transit, using:

(1) An encryption technology that has been adopted by an established standards setting body, including, but not limited to, the Federal Information

Processing Standards issued by the National Institute of Standards and Technology, which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; ~~and~~

(2) Appropriate management and safeguards of cryptographic keys to protect the integrity of the encryption using guidelines promulgated by an established standards setting body, including, but not limited to, the National Institute of Standards and Technology. ~~1.1; and~~

**(3) Any other technology or method identified by the Office of Information Security of the Department of Information Technology in regulations adopted pursuant to section 5.5 of this act.**

(c) "Facsimile" means an electronic transmission between two dedicated fax machines using Group 3 or Group 4 digital formats that conform to the International Telecommunications Union T.4 or T.38 standards or computer modems that conform to the International Telecommunications Union T.31 or T.32 standards. The term does not include onward transmission to a third device after protocol conversion, including, but not limited to, any data storage device.

(d) *"Multifunctional device" means a machine that incorporates the functionality of devices, which may include, without limitation, a printer, copier, scanner, facsimile machine or electronic mail terminal, to provide for the centralized management, distribution or production of documents.*

(e) "Payment card" has the meaning ascribed to it in NRS 205.602.

~~1.1~~ (f) "Telecommunication provider" has the meaning ascribed to it in NRS 704.027.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 98.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 857.

AN ACT relating to local governments; revising provisions relating to mediation during the process of collective bargaining; revising provisions relating to certain reports on final agreements between local government employers and employee organizations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Section 1.3** of this bill revises provisions relating to mediation between local governments and employee organizations during collective bargaining. **Sections 1, 1.7, 3 and 4** of this bill require that the reports made by the chief

executive officer of a local government or the superintendent of a school district to the local government or to the board of trustees of the school district, respectively, concerning the fiscal impact of a collective bargaining agreement between the local government and an employee organization include information relating to the estimated total cost of the agreement and the difference in that cost and the total cost of the immediately preceding agreement.

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

**Section 1.** NRS 288.153 is hereby amended to read as follows:

288.153 Any new, extended or modified collective bargaining agreement or similar agreement between a local government employer and an employee organization must be approved by the governing body of the local government employer at a public hearing. The chief executive officer of the local government shall report to the local government the fiscal impact of the agreement. *The report must include, without limitation:*

*1. The estimated total cost of the agreement, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the local government employer will pay on behalf of the employees during the period of the agreement in lieu of equivalent base salary increases or cost-of-living increases, or both, in the employees' salaries; and*

*2. The difference between the estimated total cost of the agreement and the total cost of the immediately preceding agreement between the parties.*

**Sec. 1.3.** NRS 288.190 is hereby amended to read as follows:

288.190 Except ~~in cases to which~~ *as otherwise provided in NRS 288.205 : ~~and 288.215 apply.~~*

~~1. [Anytime before March 1, the dispute may be submitted to a mediator, if both parties agree. Anytime after March 1,]~~ *If the parties to a negotiation have failed to reach an agreement after at least four meetings of negotiation, either party involved ~~[in negotiations]~~ may request a mediator. If the parties do not agree upon a mediator, ~~[the Commissioner shall submit to the parties a list of seven potential mediators.]~~ either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential mediators. If the parties are unable to agree upon which mediation service should be used, the Federal Mediation and Conciliation Service must be used.* The parties shall select their mediator from the list by alternately striking one name until the name of only one mediator remains, who will be the mediator to hear the dispute. The employee organization shall strike the first name.

2. If mediation is ~~agreed to or~~ requested pursuant to subsection 1, the mediator must be selected at the time the parties agree upon a mediator or, if the parties do not agree upon a mediator, within 5 days after the parties receive the list of potential mediators. ~~from the Commissioner.~~

3. The mediator shall bring the parties together as soon as possible and, unless otherwise agreed upon by the parties, attempt to settle the dispute within 30 days after being notified of the mediator's selection as mediator. The mediator may establish the times and dates for meetings and compel the parties to attend but has no power to compel the parties to agree.

4. ~~The~~ ***If the parties do not use a mediator provided by the Federal Mediation and Conciliation Service, the*** local government employer and employee organization each shall pay one-half of the cost of mediation. Each party shall pay its own costs of preparation and presentation of its case in mediation.

5. If the dispute is submitted to a mediator and then submitted to a fact finder, the mediator shall, within 15 days after the last meeting between the parties, give to the Commissioner of the Board a report of the efforts made to settle the dispute.

**Sec. 1.7.** NRS 288.200 is hereby amended to read as follows:

288.200 Except in cases to which NRS 288.205 and 288.215, or NRS 288.217 apply:

1. If:

(a) The parties have failed to reach an agreement after at least six ~~four~~ meetings of negotiations; and

(b) The parties have participated in mediation and by April 1, have not reached agreement,

↪ either party to the dispute, at any time after April 1, may submit the dispute to an impartial fact finder for the findings and recommendations of the fact finder. The findings and recommendations of the fact finder are not binding on the parties except as provided in subsections 5, 6 and 11. The mediator of a dispute may also be chosen by the parties to serve as the fact finder.

2. If the parties are unable to agree on an impartial fact finder or a panel of neutral arbitrators within 5 days, either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential fact finders. If the parties are unable to agree upon which arbitration service should be used, the Federal Mediation and Conciliation Service must be used. Within 5 days after receiving a list from the applicable arbitration service, the parties shall select their fact finder from this list by alternately striking one name until the name of only one fact finder remains, who will be the fact finder to hear the dispute in question. The employee organization shall strike the first name.



3. The local government employer and employee organization each shall pay one-half of the cost of fact-finding. Each party shall pay its own costs of preparation and presentation of its case in fact-finding.

4. A schedule of dates and times for the hearing must be established within 10 days after the selection of the fact finder pursuant to subsection 2, and the fact finder shall report the findings and recommendations of the fact finder to the parties to the dispute within 30 days after the conclusion of the fact-finding hearing.

5. The parties to the dispute may agree, before the submission of the dispute to fact-finding, to make the findings and recommendations on all or any specified issues final and binding on the parties.

6. If the parties do not agree on whether to make the findings and recommendations of the fact finder final and binding, either party may request the formation of a panel to determine whether the findings and recommendations of a fact finder on all or any specified issues in a particular dispute which are within the scope of subsection 11 are to be final and binding. The determination must be made upon the concurrence of at least two members of the panel and not later than the date which is 30 days after the date on which the matter is submitted to the panel, unless that date is extended by the Commissioner of the Board. Each panel shall, when making its determination, consider whether the parties have bargained in good faith and whether it believes the parties can resolve any remaining issues. Any panel may also consider the actions taken by the parties in response to any previous fact-finding between these parties, the best interests of the State and all its citizens, the potential fiscal effect both within and outside the political subdivision, and any danger to the safety of the people of the State or a political subdivision.

7. Except as otherwise provided in subsection 10, any fact finder, whether the fact finder's recommendations are to be binding or not, shall base such recommendations or award on the following criteria:

(a) A preliminary determination must be made as to the financial ability of the local government employer based on all existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.

(b) Once the fact finder has determined in accordance with paragraph (a) that there is a current financial ability to grant monetary benefits, and subject to the provisions of paragraph (c), the fact finder shall consider, to the extent appropriate, compensation of other government employees, both in and out of the State and use normal criteria for interest disputes regarding the terms

and provisions to be included in an agreement in assessing the reasonableness of the position of each party as to each issue in dispute and the fact finder shall consider whether the Board found that either party had bargained in bad faith.

(c) A consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multiyear contract, the fact finder must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➔ The fact finder's report must contain the facts upon which the fact finder based the fact finder's determination of financial ability to grant monetary benefits and the fact finder's recommendations or award.

8. Within 45 days after the receipt of the report from the fact finder, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

- (a) The issues of the parties submitted pursuant to subsection 3;
- (b) The report of findings and recommendations of the fact finder; and
- (c) The overall fiscal impact of the findings and recommendations, which must not include a discussion of the details of the report.

➔ The fact finder must not be asked to discuss the decision during the meeting.

9. The chief executive officer of the local government shall report to the local government the fiscal impact of the findings and recommendations. The report must include, without limitation ~~the~~ :

(a) *An* analysis of the impact of the findings and recommendations on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment ~~the~~ ; and

(b) *If any of the findings or recommendations of the fact finder are to be binding:*

(1) *The estimated total cost of any contract resulting from the findings or recommendations which are to be binding, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the local government employer will pay on behalf of the employees during the period of the contract in lieu of equivalent base salary increases of cost-of-living increases, or both, in the employees' salaries; and*

(2) *The difference between the estimated total cost of the contract and the total cost of the immediately preceding contract between the parties.*

10. Any sum of money which is maintained in a fund whose balance is required by law to be:

(a) Used only for a specific purpose other than the payment of compensation to the bargaining unit affected; or

(b) Carried forward to the succeeding fiscal year in any designated amount, to the extent of that amount,

↪ must not be counted in determining the financial ability of a local government employer and must not be used to pay any monetary benefits recommended or awarded by the fact finder.

11. The issues which may be included in a panel's order pursuant to subsection 6 are:

(a) Those enumerated in subsection 2 of NRS 288.150 as the subjects of mandatory bargaining, unless precluded for that year by an existing collective bargaining agreement between the parties; and

(b) Those which an existing collective bargaining agreement between the parties makes subject to negotiation in that year.

↪ This subsection does not preclude the voluntary submission of other issues by the parties pursuant to subsection 5.

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** NRS 288.215 is hereby amended to read as follows:

288.215 1. As used in this section:

(a) "Firefighters" means those persons who are salaried employees of a fire prevention or suppression unit organized by a political subdivision of the State and whose principal duties are controlling and extinguishing fires.

(b) "Police officers" means those persons who are salaried employees of a police department or other law enforcement agency organized by a political subdivision of the State and whose principal duties are to enforce the law.

2. The provisions of this section apply only to firefighters and police officers and their local government employers.

3. If the parties have not agreed to make the findings and recommendations of the fact finder final and binding upon all issues, and do not otherwise resolve their dispute, they shall, within 10 days after the fact finder's report is submitted, submit the issues remaining in dispute to an arbitrator who must be selected in the manner provided in NRS 288.200 and have the same powers provided for fact finders in NRS 288.210.

4. The arbitrator shall, within 10 days after the arbitrator is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearings must be held in the county in which the local government employer is located and the arbitrator shall arrange for a full and complete record of the hearings.

5. At the hearing, or at any subsequent time to which the hearing may be adjourned, information may be presented by:

(a) The parties to the dispute; or

(b) Any interested person.

6. The parties to the dispute shall each pay one-half of the costs incurred by the arbitrator.

7. A determination of the financial ability of a local government employer must be based on:

(a) All existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.

(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➡ Once the arbitrator has determined in accordance with this subsection that there is a current financial ability to grant monetary benefits, the arbitrator shall consider, to the extent appropriate, compensation of other governmental employees, both in and out of this State.

8. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearings for a period of 3 weeks. An agreement by the parties is final and binding, and upon notification to the arbitrator, the arbitration terminates.

9. If the parties do not enter into negotiations or do not agree within 30 days, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

10. The arbitrator shall, within 10 days after the final offers are submitted, accept one of the written statements, on the basis of the criteria provided in NRS 288.200, and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract.

11. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's ~~reason~~ **reasons** for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

12. Within 45 days after the receipt of the decision from the arbitrator pursuant to subsection 10, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 3;

(b) The statement of the arbitrator pursuant to subsection 11; and

(c) The overall fiscal impact of the decision, which must not include a discussion of the details of the decision.

➡ The arbitrator must not be asked to discuss the decision during the meeting.

13. The chief executive officer of the local government shall report to the local government the fiscal impact of the decision. The report must include, without limitation ~~the~~ :

(a) *An analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment* ~~the~~ ;

(b) *The estimated total cost of any contract resulting from the decision, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the local government employer will pay on behalf of firefighters or police officers, as applicable, during the period of the contract in lieu of equivalent base salary increases or cost-of-living increases, or both, in the employees' salaries; and*

(c) *The difference between the estimated total cost of the contract and the total cost of the immediately preceding contract between the parties.*

**Sec. 4.** NRS 288.217 is hereby amended to read as follows:

288.217 1. The provisions of this section govern negotiations between school districts and employee organizations representing teachers and educational support personnel.

2. If the parties to a negotiation pursuant to this section have failed to reach an agreement after at least four sessions of negotiation, either party may declare the negotiations to be at an impasse and, after 5 days' written notice is given to the other party, submit the issues remaining in dispute to an arbitrator. The arbitrator must be selected in the manner provided in subsection 2 of NRS 288.200 and has the powers provided for fact finders in NRS 288.210.

3. The arbitrator shall, within 30 days after the arbitrator is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearing must be held in the county in which the school district is located and the arbitrator shall arrange for a full and complete record of the hearing.

4. The parties to the dispute shall each pay one-half of the costs of the arbitration.

5. A determination of the financial ability of a school district must be based on:

(a) All existing available revenues as established by the school district and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the school district to provide an education to the children residing within the district.

(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must

consider the ability to pay over the life of the contract being negotiated or arbitrated.

➤ Once the arbitrator has determined in accordance with this subsection that there is a current financial ability to grant monetary benefits, the arbitrator shall consider, to the extent appropriate, compensation of other governmental employees, both in and out of this State.

6. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearing for a period of 3 weeks. If an agreement is reached, it must be submitted to the arbitrator, who shall certify it as final and binding.

7. If the parties do not enter into negotiations or do not agree within 30 days after the hearing held pursuant to subsection 3, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

8. The arbitrator shall, within 10 days after the final offers are submitted, render a decision on the basis of the criteria set forth in NRS 288.200. The arbitrator shall accept one of the written statements and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract between the parties.

9. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's ~~reason~~ *reasons* for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

10. Within 45 days after the receipt of the decision from the arbitrator, the board of trustees of the school district shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 2;

(b) The statement of the arbitrator pursuant to subsection 9; and

(c) The overall fiscal impact of the decision which must not include a discussion of the details of the decision.

➤ The arbitrator must not be asked to discuss the decision during the meeting.

11. The superintendent of the school district shall report to the board of trustees the fiscal impact of the decision. The report must include, without limitation ~~the~~ :

(a) *An* analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment ~~it~~ ;

*(b) The estimated total cost of any contract resulting from the decision, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the school district will pay on behalf of teachers and educational support personnel during the period of the contract in lieu of equivalent base salary increases or cost-of-living increases, or both, in the salaries of the teachers and educational support personnel; and*

*(c) The difference between the estimated total cost of the contract and the total cost of the immediately preceding contract between the parties.*

12. As used in this section:

(a) "Educational support personnel" means all classified employees of a school district, other than teachers, who are represented by an employee organization.

(b) "Teacher" means an employee of a school district who is licensed to teach in this State and who is represented by an employee organization.

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

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

#### UNFINISHED BUSINESS

#### CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 545.

The following Senate amendment was read:

Amendment No. 750.

**Section 42 of Assembly Bill No. 545 is hereby amended as follows:**

**Sec. 42.** NRS 248.100 is hereby amended to read as follows:

248.100 1. The sheriff shall:

(a) Except in a county whose population is ~~400,000~~ ~~100,000~~ 700,000 or more, attend in person, or by deputy, all sessions of the district court in his or her county.

(b) Obey all the lawful orders and directions of the district court in his or her county.

(c) Except as otherwise provided in subsection 2, execute the process, writs or warrants of courts of justice, judicial officers and coroners, when delivered to the sheriff for that purpose.

2. The sheriff may authorize the constable of the appropriate township to receive and execute the process, writs or warrants of courts of justice, judicial officers and coroners.

**Section 43 of Assembly Bill No. 545 is hereby amended as follows:**

**Sec. 43.** NRS 252.070 is hereby amended to read as follows:

252.070 1. All district attorneys may appoint deputies, who are authorized to transact all official business relating to those duties of the office set forth in NRS 252.080 and 252.090 to the same extent as their principals and perform such other duties as the district attorney may from time to time direct. The appointment of a deputy district attorney must not be construed to confer upon that deputy policymaking authority for the office of the district attorney or the county by which the deputy district attorney is employed.

2. District attorneys are responsible on their official bonds for all official malfeasance or nonfeasance of the deputies. Bonds for the faithful performance of their official duties may be required of deputies by district attorneys.

3. All appointments of deputies under the provisions of this section must be in writing and must, together with the oath of office of the deputies, be recorded in the office of the recorder of the county within which the district attorney legally holds and exercises his or her office. Revocations of those appointments must also be recorded as provided in this section. From the time of the recording of the appointments or revocations therein, persons shall be deemed to have notice of the appointments or revocations.

4. Deputy district attorneys of counties whose population is less than 100,000 may engage in the private practice of law. In any other county, except as otherwise provided in NRS 7.065 and this subsection, deputy district attorneys shall not engage in the private practice of law. An attorney appointed to prosecute a person for a limited duration with limited jurisdiction may engage in private practice which does not present a conflict with his or her appointment.

5. Any district attorney may, subject to the approval of the board of county commissioners, appoint such clerical, investigational and operational staff as the execution of duties and the operation of his or her office may require. The compensation of any person so appointed must be fixed by the board of county commissioners.

6. In a county whose population is ~~1400,000~~ ~~1400,000~~ 700,000 or more, deputies are governed by the merit personnel system of the county.

**Section 46 of Assembly Bill No. 545 is hereby amended as follows:**

**Sec. 46.** NRS 260.040 is hereby amended to read as follows:

260.040 1. The compensation of the public defender must be fixed by the board of county commissioners. The public defender of any two or more counties must be compensated and be permitted private civil practice of the law as determined by the boards of county commissioners of those counties, subject to the provisions of subsection 4 of this section and NRS 7.065.



2. The public defender may appoint as many deputies or assistant attorneys, clerks, investigators, stenographers and other employees as the public defender considers necessary to enable him or her to carry out his or her responsibilities, with the approval of the board of county commissioners. An assistant attorney must be a qualified attorney licensed to practice in this State and may be placed on a part-time or full-time basis. The appointment of a deputy, assistant attorney or other employee pursuant to this subsection must not be construed to confer upon that deputy, assistant attorney or other employee policymaking authority for the office of the public defender or the county or counties by which the deputy, assistant attorney or other employee is employed.

3. The compensation of persons appointed under subsection 2 must be fixed by the board of county commissioners of the county or counties so served.

4. The public defender and his or her deputies and assistant attorneys in a county whose population is less than 100,000 may engage in the private practice of law. Except as otherwise provided in this subsection, in any other county, the public defender and his or her deputies and assistant attorneys shall not engage in the private practice of law except as otherwise provided in NRS 7.065. An attorney appointed to defend a person for a limited duration with limited jurisdiction may engage in private practice which does not present a conflict with his or her appointment.

5. The board of county commissioners shall provide office space, furniture, equipment and supplies for the use of the public defender suitable for the conduct of the business of his or her office. However, the board of county commissioners may provide for an allowance in place of facilities. Each of those items is a charge against the county in which public defender services are rendered. If the public defender serves more than one county, expenses that are properly allocable to the business of more than one of those counties must be prorated among the counties concerned.

6. In a county whose population is ~~140,000~~ ~~110,000~~ 700,000 or more, deputies are governed by the merit personnel system of the county.

**Section 47 of Assembly Bill No. 545 is hereby amended as follows:**

**Sec. 47.** NRS 3.310 is hereby amended to read as follows:

3.310 1. Except as otherwise provided in this subsection, the judge of each district court may appoint a bailiff for the court in counties polling 4,500 or more votes. In counties polling less than 4,500 votes, the judge may appoint a bailiff with the concurrence of the sheriff. Subject to the provisions of subsections 2, 4 and 10, in a county whose population is ~~140,000~~ ~~110,000~~ 700,000 or more, the judge of each district court may appoint a

deputy marshal for the court instead of a bailiff. In each case, the bailiff or deputy marshal serves at the pleasure of the judge he or she serves.

2. In all judicial districts where there is more than one judge, there may be a number of bailiffs or deputy marshals at least equal to the number of judges, and in any judicial district where a circuit judge has presided for more than 50 percent of the regular judicial days of the prior calendar year, there may be one additional bailiff or deputy marshal, each bailiff or deputy marshal to be appointed by the joint action of the judges. If the judges cannot agree upon the appointment of any bailiff or deputy marshal within 30 days after a vacancy occurs in the office of bailiff or deputy marshal, then the appointment must be made by a majority of the board of county commissioners.

3. Each bailiff or deputy marshal shall:

- (a) Preserve order in the court.
- (b) Attend upon the jury.
- (c) Open and close court.
- (d) Perform such other duties as may be required of him or her by the judge of the court.

4. The bailiff or deputy marshal must be a qualified elector of the county and shall give a bond, to be approved by the district judge, in the sum of \$2,000, conditioned for the faithful performance of his or her duty.

5. The compensation of each bailiff or deputy marshal for his or her services must be fixed by the board of county commissioners of the county and his or her salary paid by the county wherein he or she is appointed, the same as the salaries of other county officers are paid.

6. The board of county commissioners of the respective counties shall allow the salary stated in subsection 5 as other salaries are allowed to county officers, and the county auditor shall draw his or her warrant for it, and the county treasurer shall pay it.

7. The provisions of this section do not:

(a) Authorize the bailiff or deputy marshal to serve any civil or criminal process, except such orders of the court which are specially directed by the court or the presiding judge thereof to him or her for service.

(b) Except in a county whose population is ~~400,000~~ ~~400,000~~ 700,000 or more, relieve the sheriff of any duty required of him or her by law to maintain order in the courtroom.

8. If a deputy marshal is appointed for a court pursuant to subsection 1, each session of the court must be attended by the deputy marshal.

9. For good cause shown, a deputy marshal appointed for a court pursuant to subsection 1 may be assigned temporarily to assist other judicial departments or assist with court administration as needed.

10. A person appointed to be a deputy marshal for a court pursuant to subsection 1 must be certified by the Peace Officers' Standards and Training Commission as a category I peace officer not later than 18 months after appointment.

**Section 75.5 of Assembly Bill No. 545 is hereby amended as follows:**

**Sec. 75.5. Chapter 218D of NRS is hereby amended by adding thereto a new section to read as follows:**

**1. Before changing a classification in a statute based upon population as defined in NRS 0.050, the Legislature shall review the classification, consider the suggestions of all interested persons in the State relating to whether the classification should remain unchanged or be amended, and find that the classification should be amended to a different level. The determination that a classification should be amended must not solely be based upon changes in the population of local governments in this State.**

**2. In determining whether a classification should be amended, the Legislature shall consider:**

**(a) The appropriateness of the statute to local governments or other entities of a particular population classification;**

**(b) Any changes in conditions that are applicable to the affected entities;**

**(c) Changes in state or federal law other than the law being amended;**  
**and**

**(d) The testimony of representatives of local governments and other persons indicating a need for and desire to apply the statute to the local government or to exclude the local government from the applicability of the statute.**

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 545.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 283.

The following Senate amendment was read:

Amendment No. 705.

AN ACT relating to mortgage loans; revising provisions governing the requirement for certain mortgage agents, mortgage bankers, mortgage brokers and other employees to register with the Nationwide Mortgage Licensing System and Registry; revising provisions governing continuing education requirements for certain licensees; ~~providing~~ **clarifying that** certain investors who deposit money with a mortgage broker ~~with an exemption~~ **are exempt** from criminal and civil liability for the acts or

omissions of the mortgage broker; revising provisions governing the employment or association of mortgage agents; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 requires that a person who originates residential mortgage loans be licensed as a loan originator and requires that such a loan originator be registered with the Nationwide Mortgage Licensing System and Registry. (12 U.S.C. § 5103) Existing law in Nevada prescribes the requirements for a license as a mortgage agent, mortgage banker, mortgage broker or a qualified employee who is a residential mortgage loan originator, which include, without limitation, registration with the Nationwide Mortgage Licensing System and Registry. (NRS 645B.0137, 645E.200) **Section 6** of this bill provides that such a person is not required to register or renew with the Nationwide Mortgage Licensing System and Registry, or provide reports of financial condition to the Registry, if: (1) the person is not a residential mortgage loan originator or the supervisor of a residential mortgage loan originator; and (2) the person is not required to register pursuant to the federal Act. **Section 6** also provides that such a person who voluntarily registers or renews with the Registry shall comply with all requirements of the federal Act.

Under existing law, the Commissioner of Mortgage Lending is required to adopt such regulations as necessary to carry out the provisions of the federal Act. (NRS 645F.293) **Section 7** of this bill provides that the regulations must not require registration of a person who is exempt pursuant to **section 6**.

**Sections ~~1, 2~~ 1.5, 2 and 4** of this bill revise provisions governing continuing education requirements for persons who are exempt pursuant to **section 6** and who have not voluntarily registered or renewed with the Registry. ~~Section~~ **Sections 1 and 3** of this bill ~~exempts~~ clarify that certain investors who deposit money with a mortgage broker are exempt from criminal and civil liability for the acts or omissions of the mortgage broker. **Section 5** of this bill revises provisions governing the employment of or association with a mortgage agent by a mortgage broker, mortgage banker or person who holds a certificate of exemption issued by the Commissioner of Mortgage Lending. **Section 8** of this bill repeals certain provisions governing mortgage bankers which are included within the amendatory provisions of **section 5**.

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

**Section 1. The Legislature hereby finds and declares that:**

**1. It is the intent of the Legislature to encourage investment in real property in this State;**

**2. It is the intent of the Legislature to ensure the integrity of transactions relating to investments in real property and the proper regulation of the actions of persons who facilitate such transactions, including, without limitation, mortgage brokers; and**

**3. It is the intent of the Legislature in enacting the amendatory provisions of NRS 645B.175, as amended by section 3 of this act, to clarify that the scope of the protection afforded to an investor under the existing provisions of chapter 645B of NRS includes protections from the imposition of any duty, responsibility, obligation or liability of a mortgage broker on an investor who only provides money to acquire, through the actions of a mortgage broker, ownership of or a beneficial interest in a loan secured by a lien on real property.**

~~{Section 4.}~~ **Sec. 1.5.** NRS 645B.0138 is hereby amended to read as follows:

645B.0138 1. A course of continuing education that is required pursuant to this chapter must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

(c) Ensuring compliance with the requirements for registration with the Registry and any other applicable federal law.

***3. The regulations adopted by the Commissioner pursuant to subsection 2 must not require a mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker who, pursuant to subsection 1 of section 6 of this act, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry to complete any continuing education relating to residential mortgage loans.***

**Sec. 2.** NRS 645B.051 is hereby amended to read as follows:

645B.051 1. Except as otherwise provided in ~~{this section,}~~ **subsection 2**, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

2. ~~¶The Commissioner may provide by regulation that if a person attends more than 10 hours of certified courses of continuing education during a 12-month period, the extra hours may be used to satisfy the requirement for the immediately following 12-month period and for that immediately following 12-month period only.~~ ***In lieu of the continuing education requirements set forth in paragraph (a) or (b) of subsection 1, a licensee or any natural person who supervises the daily business of the licensee who, pursuant to subsection 1 of section 6 of this act, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry must submit to the Commissioner satisfactory proof that he or she attended at least 5 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires. The hours of continuing education required by this subsection must include:***

***(a) At least 3 hours relating to the laws and regulations of this State; and***

***(b) At least 2 hours relating to ethics.***

3. As used in this section, “certified course of continuing education” means a course of continuing education which relates to the mortgage industry or mortgage transactions and which meets the requirements set forth by the Commissioner by regulation pursuant to NRS 645B.0138.

**Sec. 3.** NRS 645B.175 is hereby amended to read as follows:

645B.175 1. Except as otherwise provided in this section, all money received by a mortgage broker and his or her mortgage agents from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is independent of the parties and subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that the money does not belong to the mortgage broker.

(2) Received pursuant to subsection 4.

2. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 1 must be released:

(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the debtor or the debtor's designee less the amount due the mortgage broker for the payment of any fee or service charge;

(b) If the loan or the transfer thereof is not consummated, to each investor who furnished the money held in trust; or

(c) Pursuant to any instructions regarding the escrow account.

3. The amount held in trust pursuant to subsection 1 must not be released to the debtor or the debtor's designee unless:

(a) The amount released is equal to the total amount of money which is being loaned to the debtor for that loan, less the amount due the mortgage broker for the payment of any fee or service charge; and

(b) The mortgage broker has provided a written instruction to a title agent or title insurer requiring that a lender's policy of title insurance or appropriate title endorsement, which names as an insured each investor who owns a beneficial interest in the loan, be issued for the real property securing the loan.

4. Except as otherwise provided in this section, all money paid to a mortgage broker and his or her mortgage agents by a person in full or in partial payment of a loan secured by a lien on real property, must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that it does not belong to the mortgage broker.

(2) Received pursuant to subsection 1.

5. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 4:

(a) Must be released, upon the deduction and payment of any fee or service charge due the mortgage broker, to each investor who owns a beneficial interest in the loan in exact proportion to the beneficial interest that the investor owns in the loan; and

(b) Must not be released, in any proportion, to an investor who owns a beneficial interest in the loan, unless the amount described in paragraph (a) is

also released to every other investor who owns a beneficial interest in the loan.

6. An investor may waive, in writing, the right to receive one or more payments, or portions thereof, that are released to other investors in the manner set forth in subsection 5. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection. Any such written waiver applies only to the payment or payments, or portions thereof, that are included in the written waiver and does not affect the right of the investor to:

(a) Receive the waived payment or payments, or portions thereof, at a later date; or

(b) Receive all other payments in full and in accordance with the provisions of subsection 5.

7. Upon reasonable notice, any mortgage broker described in this section shall:

(a) Account to any investor or debtor who has paid to the mortgage broker or his or her mortgage agents money that is required to be deposited in a trust account pursuant to this section; and

(b) Account to the Commissioner for all money which the mortgage broker and his or her mortgage agents have received from each investor or debtor and which the mortgage broker is required to deposit in a trust account pursuant to this section.

8. Money received by a mortgage broker and his or her mortgage agents pursuant to this section from a person who is not associated with the mortgage broker may be held in trust for not more than 45 days before an escrow account must be opened in connection with the loan. If, within this 45-day period, the loan or the transfer therefor is not consummated, the money must be returned within 24 hours. If the money is so returned, it may not be reinvested with the mortgage broker for at least 15 days.

9. If a mortgage broker or a mortgage agent receives any money pursuant to this section, the mortgage broker or mortgage agent, after the deduction and payment of any fee or service charge due the mortgage broker, shall not release the money to:

(a) Any person who does not have a contractual or legal right to receive the money; or

(b) Any person who has a contractual right to receive the money if the mortgage broker or mortgage agent knows or, in light of all the surrounding facts and circumstances, reasonably should know that the person's contractual right to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.

10. If a mortgage broker maintains any accounts described in subsection 1 or subsection 4, the mortgage broker shall, in addition to the annual



financial statement audited pursuant to NRS 645B.085, submit to the Commissioner each 6 calendar months a financial statement concerning those trust accounts.

11. The Commissioner shall adopt regulations concerning the form and content required for financial statements submitted pursuant to subsection 10.

***12. Any duty, responsibility or obligation of a mortgage broker pursuant to this chapter is not delegable or transferable to an investor, and, if an investor only provides money to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, no criminal or civil liability may be imposed on the investor for any act or omission of a mortgage broker.***

**Sec. 4.** NRS 645B.430 is hereby amended to read as follows:

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

(a) An application for renewal;

(b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and

(c) A renewal fee set by the Commissioner of not more than \$170.

***2. In lieu of the continuing education requirement set forth in paragraph (b) of subsection 1, the holder of a license as a mortgage agent who, pursuant to subsection 1 of section 6 of this act, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry must submit to the Commissioner satisfactory proof that he or she attended at least 5 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires. The hours of continuing education required by this subsection must include:***

***(a) At least 3 hours relating to the laws and regulations of this State; and***

***(b) At least 2 hours relating to ethics.***

3. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 *or* 2 to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of \$75.

~~{3-}~~ 4. To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of \$10.

~~{4-}~~ 5. To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee of \$10.

~~{5-}~~ 6. Money received by the Commissioner pursuant to this section is in addition to any fee that must be paid to the Registry and must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

~~{6-} The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.~~

7. As used in this section, "certified course of continuing education" has the meaning ascribed to it in NRS 645B.051.

**Sec. 5.** NRS 645B.450 is hereby amended to read as follows:

645B.450 1. A person licensed as a mortgage agent pursuant to the provisions of NRS 645B.410 may not be associated with or employed by more than one *licensed or registered* mortgage broker *or mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* at the same time.

2. A mortgage broker , *mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* shall not associate with or employ a person as a mortgage agent or authorize a person to be associated with the mortgage broker , *mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* as a mortgage agent if the mortgage agent is not licensed with the Division pursuant to NRS 645B.410. *Before allowing a mortgage agent to act on its behalf, a mortgage broker, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016, must:*

*(a) Enter its sponsorship of the mortgage agent with the Registry; or*

*(b) If the mortgage agent is not required to be registered with the Registry, notify the Division of its sponsorship of the mortgage agent.*

3. If a mortgage agent terminates his or her association or employment with a mortgage broker , *mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* for any reason, the mortgage broker , *mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* shall, not later than the third business day following the date of termination:

(a) ~~{Deliver}~~ *Remove its sponsorship of the mortgage agent from the Registry; or*

*(b) If the mortgage agent is not required to be registered with the Registry, deliver to the Division and to the mortgage agent ~~for send by certified mail to~~ at the last known residence address of the mortgage agent a written statement which ~~advises the mortgage agent that the termination is being reported to the Division; and~~*

~~(b) Deliver or send by certified mail to the Division:~~

~~(1) The license or license number of the mortgage agent;~~

~~(2) A written statement of the circumstances surrounding the termination; and~~

~~(3) A copy of the written statement that the mortgage broker delivers or mails to the mortgage agent pursuant to paragraph (a).} includes the name, address and license number of the mortgage agent and a statement of the circumstances of the termination.~~

**Sec. 6.** Chapter 645F of NRS is hereby amended by adding thereto a new section to read as follows:

**1. A mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker is not required to register or renew with the Registry, or provide reports of financial condition to the Registry, if the mortgage agent, mortgage banker, mortgage broker or employee:**

*(a) Is not a residential mortgage loan originator or the supervisor of a residential mortgage loan originator; and*

*(b) Is not required to register pursuant to the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.*

**2. A mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker who, pursuant to subsection 1, is not required to register or renew with the Registry and who voluntarily registers or renews with the Registry shall comply with all requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and any regulations adopted pursuant thereto.**

**3. As used in this section, “residential mortgage loan originator” has the meaning ascribed to it in NRS 645B.01325.**

**Sec. 7.** NRS 645F.293 is hereby amended to read as follows:

645F.293 1. The Commissioner shall adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. The regulations must include, without limitation:

(a) A method by which to allow for reporting regularly violations of the relevant provisions of chapter 645B or 645E of NRS, enforcement actions and other relevant information to the Registry; and

(b) A process whereby a person may challenge information reported to the Registry by the Commissioner.

*3. The regulations must not require a mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker to register with the Registry if the mortgage agent, mortgage banker, mortgage broker or employee is exempt from registration pursuant to subsection 1 of section 6 of this act.*

**Sec. 8.** NRS 645E.292 is hereby repealed.

**Sec. 9.** This act becomes effective upon passage and approval.

#### TEXT OF REPEALED SECTION

**645E.292 Duties of mortgage banker upon termination of mortgage agent.** If a mortgage agent terminates his or her association or employment with a mortgage banker for any reason, the mortgage banker shall, not later than 3 business days following knowledge of the date of termination:

1. Deliver to the mortgage agent or send by certified mail to the last known residence address of the mortgage agent a written statement which advises the mortgage agent that the termination is being reported to the Division; and

2. Deliver or send by certified mail to the Division:

(a) The license or license number of the mortgage agent;

(b) A written statement of the circumstances surrounding the termination; and

(c) A copy of the written statement that the mortgage banker delivers or mails to the mortgage agent pursuant to subsection 1.

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 283.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 289.

The following Senate amendment was read:

Amendment No. 709.

AN ACT relating to dietetics; ~~creating the State Board of Dietetics; prescribing the powers and duties of the Board; providing for the membership of the Board;~~ providing for the licensure of dietitians, by the State Board of Health; prohibiting a person from engaging in the practice of dietetics without a license issued by the Board; setting forth the grounds for disciplinary action against a licensed dietitian; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for the licensing and regulation of the practice of dietetics by the State Board of ~~Dietetics,~~ Health. The practice of dietetics is

the performance of acts of assessment, evaluation, diagnosis, counseling, intervention, monitoring or treatment of a person relating to nutrition, food, biology, and behavior to achieve and maintain proper nourishment and care of the health of the person.

~~Sections 11-19 of this bill create the State Board of Dietetics and prescribe the powers and duties of the Board and include provisions concerning: (1) the membership of the Board; (2) the meetings of the Board; (3) the compensation of Board members; (4) a waiver of liability for actions taken by members or employees of the Board within the scope of their duties; and (5) the authority of the Board to adopt certain regulations.]~~

**Sections 2-10 and 20-31** of this bill regulate the activities of persons who engage in the practice of dietetics and include provisions concerning: (1) applications for and renewals of a license to engage in the practice of dietetics; and (2) the duties and scope of practice of a licensed dietitian.

**Sections 18 and 33** of this bill require the Board to charge and collect certain fees relating to the issuance of licenses and to carry out its other duties.

**Section 23** of this bill authorizes the Board to issue a provisional license to a person who does not meet all the qualifications for licensure under certain circumstances. **Section 24** of this bill authorizes the Board to issue a temporary license to a person for the limited purpose of treating patients in this State for a limited period under certain circumstances.

**Sections 34-44** of this bill govern disciplinary proceedings against a licensed dietitian and authorize the Board to suspend or revoke a license or deny an application for a license under certain circumstances. **Section 45** of this bill prohibits a person who is not licensed pursuant to the provisions of this bill from acting or holding himself or herself out as a licensed dietitian. **Section 46** of this bill provides that a violation of any provision of this bill is a misdemeanor and, in addition to any criminal penalty that may be imposed, authorizes the Board to impose a civil penalty for each violation.

**Sections 47-51 and 58-60** of this bill include licensed dietitians in the definition of “provider of health care” to ensure that licensed dietitians comply with the same requirements for standards of care, medical records and medical devices as other providers of health care such as doctors or nurses.

**Sections 52-54** of this bill require a licensed dietitian to report suspected incidents of abuse or neglect of an older or vulnerable person, and require a report to be forwarded to the Board if a licensed dietitian is suspected of abuse or neglect of an older or vulnerable person.

~~[Section 63 of this bill authorizes the Governor, for the initial appointments to the Board, to appoint persons who are not licensed dietitians but who meet the qualifications for licensure.]~~ **Section 64** of this bill requires

the Board to grant a license to engage in the practice of dietetics to a person who does not meet the qualifications for licensure but who was engaged in the practice of dietetics in this State before 2012 and meets certain other requirements.

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

**Section 1.** Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 1.5 to 46, inclusive, of this act.

**Sec. 1.5.** *The Legislature hereby declares that the practice of dietetics is a learned profession affecting the safety, health and welfare of the public and is subject to regulation to protect the public from the practice of dietetics by unqualified and unlicensed persons and from unprofessional conduct by persons licensed to practice dietetics. ~~[The Legislature further declares that the purpose of the State Board of Dietetics is to regulate the practice of dietetics and to enforce the provisions of this chapter.]~~*

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Board” means the State Board of ~~[Dietetics.]~~ Health.*

**Sec. 4.** *“Licensed dietitian” means a person licensed pursuant to this chapter to engage in the practice of dietetics or to provide nutrition services, including, without limitation, medical nutrition therapy.*

**Sec. 4.5.** *“Medical nutrition therapy” means the use of nutrition services by a licensed dietitian to manage, treat or rehabilitate a disease, illness, injury or medical condition of a patient.*

**Sec. 5.** *“Nutrition services” means the performance of acts designated by the Board which are within the practice of dietetics.*

**Sec. 6.** *1. “Practice of dietetics” means the performance of any act in the nutrition care process, including, without limitation, assessment, evaluation, diagnosis, counseling, intervention, monitoring and treatment, of a person which requires substantial specialized judgment and skill based on the knowledge, application and integration of the principles derived from the sciences of food, nutrition, management, communication, biology, behavior, physiology and social science to achieve and maintain proper nourishment and care of the health of the person.*

*2. The term does not include acts of medical diagnosis.*

**Sec. 7.** (Deleted by amendment.)

**Sec. 8.** *“Registered dietitian” means a person who is registered as a dietitian by the Commission on Dietetic Registration of the American Dietetic Association.*

Sec. 9. 1. *The provisions of this chapter do not apply to:*

(a) *Any person who is licensed or registered in this State as a physician pursuant to chapter 630, 630A or 633 of NRS, dentist, nurse, dispensing optician, optometrist, occupational therapist, practitioner of respiratory care, physical therapist, podiatric physician, psychologist, marriage and family therapist, chiropractor, athletic trainer, massage therapist, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician or pharmacist who:*

*(1) Practices within the scope of that license or registration;*

*(2) Does not represent that he or she is a licensed dietitian or registered dietitian; and*

*(3) Provides nutrition information incidental to the practice for which he or she is licensed or registered.*

*(b) A student enrolled in an educational program accredited by the Commission on Accreditation for Dietetics Education of the American Dietetic Association, if the student engages in the practice of dietetics under the supervision of a licensed dietitian or registered dietitian as part of that educational program.*

*(c) A registered dietitian employed by the Armed Forces of the United States, the United States Department of Veterans Affairs or any division or department of the Federal Government in the discharge of his or her official duties, including, without limitation, the practice of dietetics or providing nutrition services.*

*(d) A person who furnishes nutrition information , provides recommendations or advice concerning nutrition, or markets food, food materials or dietary supplements and provides nutrition information , recommendations or advice related to that marketing, if the person is not engaged in the practice of dietetics and does not provide nutrition services.] does not represent that he or she is a licensed dietitian or registered dietitian. While performing acts described in this paragraph, a person shall be deemed not to be engaged in the practice of dietetics or the providing of nutrition services.*

*(e) A person who provides services relating to weight loss or weight control through a program reviewed by and in consultation with a licensed dietitian or physician or a dietitian licensed or registered in another state which has equivalent licensure requirements as this State, as long as the person does not change the services or program without the approval of the person with whom he or she is consulting.*

2. *As used in this section, “nutrition information” means information relating to the principles of nutrition and the effect of nutrition on the human body, including, without limitation:*

*(a) Food preparation;*

- (b) *Food included in a normal daily diet;*
- (c) *Essential nutrients required by the human body and recommended amounts of essential nutrients, based on nationally established standards;*
- (d) *The effect of nutrients on the human body and the effect of deficiencies in or excess amounts of nutrients in the human body; and*
- (e) *Specific foods or supplements that are sources of essential nutrients.*

Sec. 10. 1. *The purpose of licensing dietitians is to protect the public health, safety and welfare of the people of this State.*

2. *Any license issued pursuant to this chapter is a revocable privilege.*

Sec. 11. ~~(Deleted by amendment.)~~

Sec. 12. ~~(Deleted by amendment.)~~

Sec. 13. ~~(Deleted by amendment.)~~

Sec. 14. ~~(Deleted by amendment.)~~

Sec. 15. ~~(Deleted by amendment.)~~

Sec. 16. ~~(Deleted by amendment.)~~

Sec. 17. 1. *The Board shall make and keep a complete record of all its proceedings ~~and~~ pursuant to this chapter, including, without limitation:*

- (a) *A file of all applications for licenses pursuant to this chapter, together with the action of the Board upon each application;*
- (b) *A register of all licensed dietitians in this State; and*
- (c) *Documentation of any disciplinary action taken by the Board against a licensee.*

2. *The Board shall maintain in its main office a public docket or other record in which it shall record, from time to time as made, the rulings or decisions upon all complaints filed with the Board and all investigations instituted by it, upon or in connection with which any hearing has been held or in which the licensee charged has made no defense.*

Sec. 18. 1. *The Board ~~shall~~ may:*

- (a) *Adopt regulations establishing reasonable standards:*
  - (1) *For the denial, renewal, suspension and revocation of, and the placement of conditions, limitations and restrictions upon, a license to engage in the practice of dietetics.*
  - (2) *Of professional conduct for the practice of dietetics.*
- (b) *Investigate and determine the eligibility of an applicant for a license pursuant to this chapter.*
- (c) *Carry out and enforce the provisions of this chapter and the regulations adopted pursuant thereto.*

2. *The Board shall adopt regulations establishing reasonable:*

- (a) *Qualifications for the issuance of a license pursuant to this chapter.*
  - (b) *Standards for the continuing professional competence of licensees.*
- The Board may evaluate licensees periodically for compliance with those standards.*



3. The Board shall adopt regulations establishing a schedule of reasonable fees and charges for:

- (a) Investigating licensees and applicants for a license pursuant to this chapter;
- (b) Evaluating the professional competence of licensees;
- (c) Conducting hearings pursuant to this chapter;
- (d) Duplicating and verifying records of the Board; and
- (e) Surveying, evaluating and approving schools and courses of dietetics,

↪ and may collect the fees established pursuant to this subsection.

4. The Board may adopt such other regulations as it determines necessary ~~for~~

- ~~(a) For its own government; and~~
- ~~(b) To~~ to carry out the provisions of this chapter relating to the practice of dietetics.

Sec. 19. The Board may:

1. Accept gifts or grants of money to pay for the costs of administering the provisions of this chapter.

2. Enter into contracts with other public agencies and accept payment from those agencies to pay the expenses incurred by the Board in carrying out the provisions of this chapter relating to the practice of dietetics.

Sec. 19.5. 1. The Board may establish a Dietitian Advisory Group consisting of persons familiar with the practice of dietetics to provide the Board with expertise and assistance in carrying out its duties pursuant to this chapter. If a Dietitian Advisory Group is established, the Board shall:

- (a) Determine the number of members;
- (b) Appoint the members;
- (c) Establish the terms of the members; and
- (d) Determine the duties of the Dietitian Advisory Group.

2. Members of a Dietitian Advisory Group established pursuant to subsection 1 serve without compensation.

Sec. 20. 1. An applicant for a license to engage in the practice of dietetics in this State must submit to the Board a completed application on a form prescribed by the Board. The application must include, without limitation, written evidence that the applicant:

- (a) Is 21 years of age or older.
- (b) Is of good moral character.
- (c) Has completed a course of study and holds a bachelor's degree or higher in human nutrition, nutrition education, food and nutrition, dietetics, food systems management or an equivalent course of study approved by the Board from a college or university that:

*(1) Was accredited, at the time the degree was received, by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education; or*

*(2) Is located in a foreign country if the application includes the documentation required by section 21 of this act.*

*(d) Has completed not less than 1,200 hours of training and experience within the United States in the practice of dietetics under the direct supervision of a licensed dietitian, registered dietitian or a person who holds a doctorate degree in human nutrition, nutrition education, food and nutrition, dietetics or food systems management from a college or university that is:*

*(1) Accredited by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education; or*

*(2) Located in a foreign country if the application includes the documentation required by section 21 of this act.*

*(e) Has successfully completed the Registration Examination for Dietitians administered by the Commission on Dietetic Registration of the American Dietetic Association.*

*(f) Meets such other reasonable requirements as prescribed by the Board.*

*2. Each applicant must remit the applicable fee required pursuant to this chapter with the application for a license to engage in the practice of dietetics in this State.*

*3. Each applicant shall submit to the Central Repository for Nevada Records of Criminal History two complete sets of fingerprints for submission to the Federal Bureau of Investigation for its report. The Central Repository for Nevada Records of Criminal History shall determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188 and immediately inform the Board of whether the applicant has been convicted of such a crime.*

*Sec. 21. 1. If an applicant for a license to engage in the practice of dietetics is a graduate of a college or university located in a foreign country, the applicant must include with his or her application a written statement or other proof from the Council for Higher Education Accreditation or its successor organization that the degree is equivalent to a degree issued by a college or university accredited by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education.*

2. *If an applicant for a license to engage in the practice of dietetics completed his or her hours of training and experience under the supervision of a person who holds a doctorate degree conferred by a college or university located in a foreign country, the applicant must include with his or her application a written statement or other proof from the Council for Higher Education Accreditation or its successor organization that the degree held by the person who supervised the training and experience is equivalent to a degree issued by a college or university accredited by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education.*

Sec. 22. 1. *A person who has the education and experience required by section 20 of this act but who has not passed the examination required for licensure may engage in the practice of dietetics under the direct supervision of a licensed dietitian who is professionally and legally responsible for the applicant's performance.*

2. *A person shall not engage in the practice of dietetics pursuant to subsection 1 for a period of more than 1 year.*

Sec. 23. 1. *Upon application and payment of the applicable fee required pursuant to this chapter, the Board may grant a provisional license to engage in the practice of dietetics in this State to an applicant who provides evidence to the Board that the applicant has completed a course of study and holds a bachelor's degree or higher in human nutrition, nutrition education, food and nutrition, dietetics, food systems management or an equivalent course of study approved by the Board from a college or university that:*

(a) *Was accredited, at the time the degree was received, by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education; or*

(b) *Is located in a foreign country if the application includes the documentation required by section 21 of this act.*

2. *A provisional license is valid for 1 year after the date of issuance. A provisional license may be renewed for not more than 6 months if the applicant submits evidence satisfactory to the Board for the failure of the applicant to obtain a license to engage in the practice of dietetics during the time the applicant held the provisional license.*

3. *A person who holds a provisional license may engage in the practice of dietetics only under the supervision of a licensed dietitian.*

Sec. 24. 1. *Upon application and payment of the applicable fee required pursuant to this chapter, the Board may grant a temporary license*

*to engage in the practice of dietetics in this State to a person who holds a corresponding license in another jurisdiction if:*

*(a) The corresponding license is in good standing; and*

*(b) The requirements for licensure in the other jurisdiction are substantially equal to the requirements for licensure in this State.*

*2. A temporary license may be issued for the limited purpose of authorizing the licensee to treat patients in this State.*

*3. A temporary license is valid for the 10-day period designated on the license.*

*Sec. 25. (Deleted by amendment.)*

*Sec. 26. 1. In addition to any other requirements set forth in this chapter:*

*(a) An applicant for the issuance of a license to engage in the practice of dietetics in this State shall include the social security number of the applicant in the application submitted to the Board.*

*(b) An applicant for the issuance or renewal of a license to engage in the practice of dietetics in this State shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

*2. The Board shall include the statement required pursuant to subsection 1 in:*

*(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or*

*(b) A separate form prescribed by the Board.*

*3. A license to engage in the practice of dietetics may not be issued or renewed by the Board if the applicant:*

*(a) Fails to submit the statement required pursuant to subsection 1; or*

*(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*

*4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

Sec. 27. 1. *A licensed dietitian shall provide nutrition services to assist a person in achieving and maintaining proper nourishment and care of his or her body, including, without limitation:*

*(a) Assessing the nutritional needs of a person and determining resources for and constraints in meeting those needs by obtaining, verifying and interpreting data;*

*(b) Determining the metabolism of a person and identifying the food, nutrients and supplements necessary for growth, development, maintenance or attainment of proper nourishment of the person;*

*(c) Considering the cultural background and socioeconomic needs of a person in achieving or maintaining proper nourishment;*

*(d) Identifying and labeling nutritional problems of a person;*

*(e) Recommending the appropriate method of obtaining proper nourishment, including, without limitation, orally, intravenously or through a feeding tube;*

*(f) Providing counseling, advice and assistance concerning health and disease with respect to the nutritional intake of a person;*

*(g) Establishing priorities, goals and objectives that meet the nutritional needs of a person and are consistent with the resources of the person, including, without limitation, providing instruction on meal preparation;*

*(h) Treating nutritional problems of a person and identifying patient outcomes to determine the progress made by the person;*

*(i) Planning activities to change the behavior, risk factors, environmental conditions or other aspects of the health and nutrition of a person, a group of persons or the community at large;*

*(j) Developing, implementing and managing systems to provide care related to nutrition;*

*(k) Evaluating and maintaining appropriate standards of quality in the services provided;*

*(l) Accepting and transmitting verbal and electronic orders from a physician consistent with an established protocol to implement medical nutrition therapy; and*

*(m) Ordering medical laboratory tests relating to the therapeutic treatment concerning the nutritional needs of a patient when authorized to do so by a written protocol prepared or approved by a physician.*

2. *A licensed dietitian may use medical nutrition therapy to manage, treat or rehabilitate a disease, illness, injury or medical condition of a patient, including, without limitation:*

*(a) Interpreting data and recommending the nutritional needs of the patient through methods such as diet, feeding tube, intravenous solutions or specialized oral feedings;*

*(b) Determining the interaction between food and drugs prescribed to the patient; and*

*(c) Developing and managing operations to provide food, care and treatment programs prescribed by a physician, physician assistant, dentist, advanced practitioner of nursing or podiatric physician that monitor or alter the food and nutrient levels of the patient.*

*3. A licensed dietitian shall not provide medical diagnosis of the health of a person.*

*Sec. 28. (Deleted by amendment.)*

*Sec. 29. 1. Except as otherwise provided in subsection 2, the Board may waive any requirement of section 20 or 23 of this act for an applicant who proves to the satisfaction of the Board that his or her education and experience are substantially equivalent to the education and experience required by the respective section.*

*2. The Board may waive the requirement of an examination that is set forth in section 20 of this act in accordance with regulations adopted by the Board that prescribe the circumstances under which the Board may waive the requirement of the examination.*

*Sec. 30. (Deleted by amendment.)*

*Sec. 31. 1. A license to engage in the practice of dietetics expires 2 years after the date of issuance.*

*2. The Board may renew a license if the applicant:*

*(a) Submits a completed written application and the appropriate fee required pursuant to this chapter;*

*(b) Submits documentation of completion of such continuing training and education as required by regulations adopted by the Board;*

*(c) Has not committed any act which is grounds for disciplinary action, unless the Board determines that sufficient restitution has been made or the act was not substantially related to the practice of dietetics;*

*(d) Submits information that the credentials of the applicant are in good standing; and*

*(e) Submits all other information required to complete the renewal.*

*3. The Board shall require a licensed dietitian who fails to submit an application for the renewal of his or her license within 2 years after the date of the expiration of the license to take the examination required by section 20 of this act before renewing the license.*

*Sec. 32. The Board shall act upon an application for a license submitted pursuant to this chapter without unnecessary delay. If an applicant is found qualified, the applicant must be issued a license to engage in the practice of dietetics.*

*Sec. 33. 1. The Board shall adopt regulations establishing reasonable fees for:*

- (a) *The examination of an applicant for a license;*
- (b) *The issuance of a license;*
- (c) *The issuance of a provisional license;*
- (d) *The issuance of a temporary license;*
- (e) *The renewal of a license;*
- (f) *The late renewal of a license;*
- (g) *The reinstatement of a license which has been suspended or revoked;*  
*and*
- (h) *The issuance of a duplicate license or for changing the name on a license.*

2. *The fees established pursuant to subsection 1 must be set in such an amount as to reimburse the Board for the cost of carrying out the provisions of this chapter ~~+~~, except that no such fee may exceed \$250.*

Sec. 34. 1. *The Board may deny, refuse to renew, revoke or suspend any license applied for or issued pursuant to this chapter, or take such other disciplinary action against a licensee as authorized by regulations adopted by the Board, upon determining that the licensee:*

- (a) *Is guilty of fraud or deceit in procuring or attempting to procure a license pursuant to this chapter.*
- (b) *Is guilty of any offense:*
  - (1) *Involving moral turpitude; or*
  - (2) *Relating to the qualifications, functions or duties of a licensee.*
- (c) *Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs his or her ability to conduct the practice authorized by the license.*
- (d) *Is guilty of unprofessional conduct, which includes, without limitation:*
  - (1) *Impersonating an applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license.*
  - (2) *Impersonating another licensed dietitian.*
  - (3) *Permitting or allowing another person to use his or her license to engage in the practice of dietetics.*
  - (4) *Repeated malpractice, which may be evidenced by claims of malpractice settled against the licensee.*
  - (5) *Physical, verbal or psychological abuse of a patient.*
  - (6) *Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.*
- (e) *Has willfully or repeatedly violated any provision of this chapter.*
- (f) *Is guilty of aiding or abetting any person in violating any provision of this chapter.*

*(g) Has been disciplined in another state in connection with the practice of dietetics or has committed an act in another state which would constitute a violation of this chapter.*

*(h) Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.*

*(i) Has willfully failed to comply with a regulation, subpoena or order of the Board.*

*2. In addition to any criminal or civil penalty that may be imposed pursuant to this chapter, the Board may assess against and collect from a licensee all costs incurred by the Board in connection with any disciplinary action taken against the licensee, including, without limitation, costs for investigators and stenographers, attorney's fees and other costs of the hearing.*

*3. For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere constitutes a conviction of an offense. The Board may take disciplinary action pending the appeal of a conviction.*

*Sec. 35. 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license issued pursuant to this chapter, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*2. The Board shall reinstate a license issued pursuant to this chapter that has been suspended by a district court pursuant to NRS 425.540 if:*

*(a) The Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560; and*

*(b) The person whose license was suspended pays the appropriate fee required pursuant to this chapter.*

*Sec. 36. 1. ~~Before suspending or revoking any license or taking other disciplinary action against a licensee, the Board shall cause an administrative complaint to be filed against the licensee. The~~ If any member of the Board or a Dietitian Advisory Group established pursuant to section 19.5 of this act becomes aware of any ground for initiating*



disciplinary action against a licensee, the member shall file an administrative complaint with the Board.

2. As soon as practical after receiving an administrative complaint, the Board shall ~~notify~~ :

(a) Notify the licensee in writing of the charges against him or her, accompanying the notice with a copy of the administrative complaint ~~and~~ ;

(b) Forward a copy of the complaint to the Commission on Dietetic Registration of the American Dietetic Association or its successor organization for investigation of the complaint and request a written report of the findings of the investigation or, to the extent money is available to do so, conduct an investigation of the complaint to determine whether the allegations in the complaint merit the initiation of disciplinary proceedings against the licensee.

~~[2.]~~ 3. Written notice to the licensee may be served by delivering it personally to the licensee, or by mailing it by registered or certified mail to the last known residential address of the licensee.

~~[3.]~~ 4. If the licensee, after receiving a copy of the administrative complaint pursuant to subsection 1, submits a written request, the Board shall furnish the licensee with a copy of each communication, report and affidavit in the possession of the Board which relates to the matter in question.

~~[4. As soon as practicable after the filing of the administrative complaint,]~~

5. If, after an investigation conducted by the Board or receiving the findings from an investigation of the complaint from the Commission on Dietetic Registration of the American Dietetic Association or its successor organization, the Board determines that the administrative complaint is valid, the Board shall hold a hearing on the charges at such time and place as the Board prescribes. If the Board receives a report pursuant to subsection 5 of NRS 228.420, the hearing must be held within 30 days after receiving the report. If requested by the licensee, the hearing must be held within the county in which the licensee resides.

Sec. 37. The Board may delegate its authority to conduct hearings pursuant to section 36 of this act concerning the discipline of a licensee to a hearing officer. The hearing officer has the powers of the Board in connection with such hearings, and shall report to the Board his or her findings of fact and conclusions of law within 30 days after the final hearing on the matter. The Board may take action based upon the report of the hearing officer, refer the matter to the hearing officer for further hearings or conduct its own hearings on the matter.

Sec. 38. The Board may:

1. *Issue subpoenas for the attendance of witnesses and the production of books, papers and documents; and*

2. *Administer oaths when taking testimony in any matter relating to the duties of the Board. ; and*

~~3. *Adopt a seal which must be judicially noticed by the courts of this State.*~~

Sec. 39. 1. *The district court in and for the county in which any hearing is held by the Board may compel the attendance of witnesses, the giving of testimony and the production of books, papers and documents as required by any subpoena issued by the Board.*

2. *In case of the refusal of any witness to attend or testify or produce any books, papers or documents required by a subpoena, the Board may report to the district court in and for the county in which the hearing is pending, by petition setting forth:*

(a) *That due notice has been given of the time and place of attendance of the witness or the production of books, papers or documents;*

(b) *That the witness has been subpoenaed in the manner prescribed by this chapter; and*

(c) *That the witness has failed and refused to attend or produce the books, papers or documents required by the subpoena before the Board in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him or her in the course of the hearing,*  
↪ *and ask an order of the court compelling the witness to attend and testify or produce the books, papers or documents before the Board.*

3. *The court, upon petition of the Board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in the order, the time to be not more than 10 days after the date of the order, to show cause why the witness has not attended or testified or produced the books, papers or documents before the Board. A certified copy of the order must be served upon the witness.*

4. *If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order that the witness appear before the Board at the time and place fixed in the order and testify or produce the required books, papers or documents. Upon failure to obey the order, the witness must be dealt with as for contempt of court.*

Sec. 40. 1. *The Board shall render a decision on any administrative complaint within 60 days after the final hearing thereon. For the purposes of this subsection, the final hearing on a matter delegated to a hearing officer pursuant to section 37 of this act is the final hearing conducted by the hearing officer unless the Board conducts a hearing with regard to the administrative complaint.*

2. The Board shall notify the licensee of its decision in writing by certified mail, return receipt requested. The decision of the Board becomes effective on the date the licensee receives the notice or on the date the Board receives a notice from the United States Postal Service stating that the licensee refused to accept delivery or could not be located.

**Sec. 41. (Deleted by amendment.)**

Sec. 42. 1. Any licensee whose license ~~was~~ is revoked by the Board may apply for reinstatement of the license pursuant to ~~the provisions of chapter 622A of NRS.~~

~~2. In addition to the requirements for reinstatement of the license pursuant to chapter 622A of NRS, the~~ regulations adopted by the Board.

2. The Board may reinstate the license upon compliance by the licensee with all requirements for reinstatement established by regulations adopted by the Board and payment of the applicable fee required pursuant to this chapter.

Sec. 43. 1. Except as otherwise provided in this section and NRS 239.0115, any records or information obtained during the course of an investigation by the Board and any record of the investigation are confidential.

2. Any complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose disciplinary action are public records.

3. This section does not prevent or prohibit the Board from communicating or cooperating with another licensing board or any agency that is investigating a licensee, including a law enforcement agency.

Sec. 44. If the Board, based on evidence satisfactory to it, believes that any person has violated or is about to violate any provision of this chapter, the terms of any license, or any order, decision, demand or requirement, or any part thereof, the Board may bring an action, in the name of the Board, in the district court in and for the county in which the person resides, against the person to enjoin the person from continuing the violation or engaging in any act that constitutes such a violation. The court may enter an order or judgment granting such injunctive relief as it determines proper, but no such injunctive relief may be granted without at least 5 days' notice to the opposite party.

Sec. 45. If a person is not licensed to engage in the practice of dietetics pursuant to this chapter, or if a person's license to engage in the practice of dietetics has been suspended or revoked by the Board, the person shall not:

1. Engage in the practice of dietetics;

2. *Use in connection with his or her name the words or letters “L.D.,” “licensed dietitian” ~~“L.N.,” “licensed nutritionist,”~~ or any other letters, words or insignia indicating or implying that he or she is licensed to engage in the practice of dietetics, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word “dietetics” ~~for~~ ~~“nutritionist”~~ or represent himself or herself as licensed or qualified to engage in the practice of dietetics in this State; or*

3. *List or cause to have listed in any directory, including, without limitation, a telephone directory, his or her name or the name of his or her company under the heading “Dietitian” ~~for “Nutritionist”~~ or any other term that indicates or implies that he or she is licensed or qualified to engage in the practice of dietetics in this State.*

**Sec. 46.** 1. *A person who violates any provision of this chapter or any regulation adopted pursuant thereto is guilty of a misdemeanor.*

2. *In addition to any criminal penalty that may be imposed pursuant to subsection 1, the Board may, after notice and hearing, impose a civil penalty of not more than \$100 for each such violation. For the purposes of this subsection, each day on which a violation occurs constitutes a separate offense, except that the aggregate civil penalty that may be imposed against a person pursuant to this subsection may not exceed \$10,000.*

**Sec. 47.** NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by a specific statute:

1. “Provider of health care” means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, physician assistant, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor, athletic trainer, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist, **licensed dietitian** or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

**Sec. 48.** NRS 7.095 is hereby amended to read as follows:

7.095 1. An attorney shall not contract for or collect a fee contingent on the amount of recovery for representing a person seeking damages in connection with an action for injury or death against a provider of health care based upon professional negligence in excess of:

- (a) Forty percent of the first \$50,000 recovered;
- (b) Thirty-three and one-third percent of the next \$50,000 recovered;
- (c) Twenty-five percent of the next \$500,000 recovered; and
- (d) Fifteen percent of the amount of recovery that exceeds \$600,000.

2. The limitations set forth in subsection 1 apply to all forms of recovery, including, without limitation, settlement, arbitration and judgment.

3. For the purposes of this section, “recovered” means the net sum recovered by the plaintiff after deducting any disbursements or costs incurred in connection with the prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and general and administrative expenses incurred by the office of the attorney are not deductible disbursements or costs.

4. As used in this section:

(a) “Professional negligence” means a negligent act or omission to act by a provider of health care in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death. The term does not include services that are outside the scope of services for which the provider of health care is licensed or services for which any restriction has been imposed by the applicable regulatory board or health care facility.

(b) “Provider of health care” means a physician licensed under chapter 630 or 633 of NRS, dentist, registered nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, *licensed dietitian* or a licensed hospital and its employees.

**Sec. 49.** NRS 41A.017 is hereby amended to read as follows:

41A.017 “Provider of health care” means a physician licensed under chapter 630 or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, *licensed dietitian* or a licensed hospital and its employees.

**Sec. 50.** NRS 42.021 is hereby amended to read as follows:

42.021 1. In an action for injury or death against a provider of health care based upon professional negligence, if the defendant so elects, the defendant may introduce evidence of any amount payable as a benefit to the plaintiff as a result of the injury or death pursuant to the United States Social Security Act, any state or federal income disability or worker’s compensation act, any health, sickness or income-disability insurance, accident insurance that provides health benefits or income-disability coverage, and any contract or agreement of any group, organization, partnership or corporation to provide, pay for or reimburse the cost of medical, hospital, dental or other health care services. If the defendant elects to introduce such evidence, the plaintiff may introduce evidence of any amount that the plaintiff has paid or contributed to secure the plaintiff’s right to any insurance benefits concerning which the defendant has introduced evidence.

2. A source of collateral benefits introduced pursuant to subsection 1 may not:

- (a) Recover any amount against the plaintiff; or
- (b) Be subrogated to the rights of the plaintiff against a defendant.

3. In an action for injury or death against a provider of health care based upon professional negligence, a district court shall, at the request of either party, enter a judgment ordering that money damages or its equivalent for future damages of the judgment creditor be paid in whole or in part by periodic payments rather than by a lump-sum payment if the award equals or exceeds \$50,000 in future damages.

4. In entering a judgment ordering the payment of future damages by periodic payments pursuant to subsection 3, the court shall make a specific finding as to the dollar amount of periodic payments that will compensate the judgment creditor for such future damages. As a condition to authorizing periodic payments of future damages, the court shall require a judgment debtor who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment. Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remains, to the judgment debtor.

5. A judgment ordering the payment of future damages by periodic payments entered pursuant to subsection 3 must specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments will be made. Such payments must only be subject to modification in the event of the death of the judgment creditor. Money damages awarded for loss of future earnings must not be reduced or payments terminated by reason of the death of the judgment creditor, but must be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately before the judgment creditor's death. In such cases, the court that rendered the original judgment may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages in accordance with this subsection.

6. If the court finds that the judgment debtor has exhibited a continuing pattern of failing to make the periodic payments as specified pursuant to subsection 5, the court shall find the judgment debtor in contempt of court and, in addition to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the failure to make such periodic payments, including, but not limited to, court costs and attorney's fees.

7. Following the occurrence or expiration of all obligations specified in the periodic payment judgment, any obligation of the judgment debtor to

make further payments ceases and any security given pursuant to subsection 4 reverts to the judgment debtor.

8. As used in this section:

(a) “Future damages” includes damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering of the judgment creditor.

(b) “Periodic payments” means the payment of money or delivery of other property to the judgment creditor at regular intervals.

(c) “Professional negligence” means a negligent act or omission to act by a provider of health care in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death. The term does not include services that are outside the scope of services for which the provider of health care is licensed or services for which any restriction has been imposed by the applicable regulatory board or health care facility.

(d) “Provider of health care” means a physician licensed under chapter 630 or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, *licensed dietitian* or a licensed hospital and its employees.

**Sec. 51.** NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) “Assault” means:

(1) Unlawfully attempting to use physical force against another person;

or

(2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) “Officer” means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require the employee to make home visits.

(c) “Provider of health care” means a physician, a perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of

homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern, **a licensed dietitian** and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her



duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

**Sec. 52.** NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging and Disability Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging and Disability Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging and Disability Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or

practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician , ***licensed dietitian*** or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 427A.0291.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his or her written findings. The written findings must

include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging and Disability Services Division of the Department of Health and Human Services, must be forwarded within 30 days after the completion of the report to the:

- (a) Aging and Disability Services Division;
- (b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and
- (c) Unit for the Investigation and Prosecution of Crimes.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging and Disability Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if the older person is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

**Sec. 53.** NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or

practical nurse, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician , *licensed dietitian* or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

**Sec. 54.** NRS 200.5095 is hereby amended to read as follows:

200.5095 1. Reports made pursuant to NRS 200.5093, 200.50935 and 200.5094, and records and investigations relating to those reports, are confidential.

2. A person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning the reports and investigation of the abuse, neglect, exploitation or isolation of older persons or vulnerable persons, except:

- (a) Pursuant to a criminal prosecution;
- (b) Pursuant to NRS 200.50982; or
- (c) To persons or agencies enumerated in subsection 3,

↪ is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 2 and NRS 200.50982, data or information concerning the reports and investigations of the abuse, neglect, exploitation or isolation of an older person or a vulnerable person is available only to:

(a) A physician who is providing care to an older person or a vulnerable person who may have been abused, neglected, exploited or isolated;

(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person or vulnerable person;

(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation or isolation of the older person or vulnerable person;

(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;

(e) A person engaged in bona fide research, but the identity of the subjects of the report must remain confidential;

(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(g) Any comparable authorized person or agency in another jurisdiction;

(h) A legal guardian of the older person or vulnerable person, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the legal guardian of the older person or vulnerable person is not the person suspected of such abuse, neglect, exploitation or isolation;

(i) If the older person or vulnerable person is deceased, the executor or administrator of his or her estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the executor or administrator is not the person suspected of such abuse, neglect, exploitation or isolation; or

(j) The older person or vulnerable person named in the report as allegedly being abused, neglected, exploited or isolated, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected, exploited or isolated an older person or a vulnerable person is the holder of a license or certificate issued pursuant to chapters 449, 630 to 641B, inclusive, or 654 of NRS, *or sections 1.5 to 46, inclusive, of this act, the* information contained in the report must be submitted to the board that issued the license.

**Sec. 55. (Deleted by amendment.)**

**Sec. 56. (Deleted by amendment.)**

**Sec. 57. (Deleted by amendment.)**

**Sec. 58.** NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his or her scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, perfusionist, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor, *licensed dietitian* or doctor of Oriental medicine in any form.

**Sec. 59.** NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a

governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his or her scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) “Medicaid” means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) “Medicare” means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) “Provider of health care” means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, perfusionist, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor, *licensed dietitian* or doctor of Oriental medicine in any form.

**Sec. 60.** NRS 442.003 is hereby amended to read as follows:

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

1. “Advisory Board” means the Advisory Board on Maternal and Child Health.

2. “Department” means the Department of Health and Human Services.

3. “Director” means the Director of the Department.

4. “Fetal alcohol syndrome” includes fetal alcohol effects.

5. “Health Division” means the Health Division of the Department.

6. “Obstetric center” has the meaning ascribed to it in NRS 449.0155.

7. “Provider of health care or other services” means:

(a) A clinical alcohol and drug abuse counselor who is licensed, or an alcohol and drug abuse counselor who is licensed or certified, pursuant to chapter 641C of NRS;

(b) A physician or a physician assistant who is licensed pursuant to chapter 630 or 633 of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;

(c) A licensed nurse;

- (d) A licensed psychologist;
- (e) A licensed marriage and family therapist;
- (f) A licensed clinical professional counselor;
- (g) A licensed social worker; ~~for~~
- (h) *A licensed dietitian; or*
- (i) The holder of a certificate of registration as a pharmacist.

**Sec. 61.** NRS 608.0116 is hereby amended to read as follows:

608.0116 "Professional" means pertaining to an employee who is licensed or certified by the State of Nevada for and engaged in the practice of law or any of the professions regulated by chapters 623 to 645, inclusive, 645G and 656A of NRS ~~1.5 to 46, inclusive, of this act.~~

**Sec. 62.** Section 26 of this act is hereby amended to read as follows:

Sec. 26. 1. In addition to any other requirements set forth in this chapter ~~1:~~

~~(a) An applicant for the issuance of a license to engage in the practice of dietetics in this State shall include the social security number of the applicant in the application submitted to the Board.~~

~~(b) An~~, *an* applicant for the issuance or renewal of a license to engage in the practice of dietetics in this State shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to engage in the practice of dietetics may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the



order to determine the actions that the applicant may take to satisfy the arrearage.

**Sec. 63. (Deleted by amendment.)**

**Sec. 63.5. Except for the suspension of a license pursuant to section 35 of this act, no disciplinary action may be initiated, investigated or imposed pursuant to sections 1.5 to 46, inclusive, of this act before July 1, 2013.**

**Sec. 64.** Notwithstanding the provisions of section 20 of this act, the State Board of ~~Dietetics~~ **Health** shall grant a license to engage in the practice of dietetics in this state without examination to a person who:

1. Was engaged in the practice of dietetics in this State on or before January 1, 2012;
2. Submits an application for a license to the Board on or before January 1, 2013; and
3. Presents proof that the person:
  - (a) Is a registered dietitian; or
  - (b) Meets the education and experience requirements set forth in section 20 of this act.

**Sec. 65.** 1. This section and sections 11 and 63 of this act become effective upon passage and approval.

2. Sections 1 to 10, inclusive, 12 to 61, inclusive, ~~63.5~~ and 64 of this act become effective on July 1, 2011, for the purpose of adopting regulations and carrying out any other administrative tasks, and on January 1, 2012, for all other purposes.

3. Section 62 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

- (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or
  - (b) Are in arrears in the payment for the support of one or more children,
- ➔ are repealed by the Congress of the United States.

4. Sections 35 and 62 of this act expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

- (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or
- (b) Are in arrears in the payment for the support of one or more children,

are repealed by the Congress of the United States.

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 289.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 309.

The following Senate amendment was read:

Amendment No. 597.

AN ACT relating to insurance; creating the Office of the Consumer Advocate within the Division of Insurance of the Department of Business and Industry; requiring the Governor to appoint a Consumer Advocate as the executive head of the office; requiring the Consumer Advocate to intervene in and represent the public interest in public hearings relating to rates for certain ~~polices, contracts or plans of health insurance;~~ **health benefit plans;** requiring an insurer to provide certain information to the Consumer Advocate and the Division and publish on an Internet website maintained by the insurer certain information concerning each ~~policy, contract or plan of health insurance;~~ **such health benefit plan** offered by the insurer in this State; requiring the Commissioner of Insurance to publish on an Internet website maintained by the Division certain information relating to health insurance rates and public hearings relating to rates for ~~certain policies, contracts or plans of health insurance;~~ **such health benefit plans;** authorizing an insurer and the Consumer Advocate to request a public hearing on any rate or proposed rate increase or decrease of **such a policy, contract or plan of health insurance; **health benefit plan** filed by the insurer with the Commissioner; authorizing a consumer of health insurance to request a public hearing on certain rates and proposed rate increases or decreases of **such a policy, contract or plan of health insurance; **health benefit plan** filed by an insurer with the Commissioner; authorizing the Commissioner to hold a public hearing on a rate or proposed rate increase or decrease of **such a policy, contract or plan of health insurance; **health benefit plan** filed by an insurer; ~~removing~~ **revising** certain provisions relating to trade secrets of insurers; providing a penalty; and providing other matters properly relating thereto.******

Legislative Counsel's Digest:

**The Nevada Insurance Code is set forth in title 57 of NRS. Section 1 of this bill provides that no provision of the Code applies to Medicaid or the Children's Health Insurance Program.**

The Commissioner of Insurance has exclusive authority to regulate insurers in this State and to approve or disapprove rates or proposed rate

increases of insurers. (Chapters 679B, 680A and 686B of NRS) **Section 2** of this bill creates the Office of the Consumer Advocate within the Division of Insurance of the Department of Business and Industry and requires the Governor to appoint a Consumer Advocate to serve as executive head of the office and to intervene in and represent the public interest in certain public hearings relating to rates or proposed rate increases or decreases for ~~for certain policies, contracts or plans of health insurance.~~ **individual health benefit plans and group health plans for small employers.** **Section 3** of this bill requires an insurer to provide certain information to the Consumer Advocate and the Division, and **section 6** of this bill requires an insurer to publish on an Internet website maintained by the insurer the ~~provisions, terms, rates,~~ **base** premiums, certificates of coverage and actual and projected loss ratios of ~~each policy, contract or plan of health insurance.~~ **such health benefit plans** offered by the insurer to consumers in this State. **Section 6** also requires the Division to maintain a link to the Internet website of the insurer on an Internet website maintained by the Division.

**Section 7** of this bill authorizes the Commissioner to hold a public hearing before approving or denying a rate or proposed rate increase or decrease of ~~such a policy, contract or plan of health insurance.~~ **health benefit plan.** **Section 7** also authorizes an insurer, the Consumer Advocate or a consumer of health insurance to request such a public hearing. **Section 7** further requires the insurer and Commissioner to publish on an Internet website maintained by the insurer or Division, respectively, certain information relating to a request for approval of a rate or proposed rate increase or decrease, including the date by which a person must request a public hearing concerning a rate or proposed rate increase. **Section 12** of this bill requires that certain information be filed with the Commissioner and provides that **with certain exceptions relating to confidentiality and trade secrets,** the information which is filed by certain insurers is available to the public upon a written request.

Existing law prohibits the Commissioner from disclosing to a third party certain proprietary information of an insurer. (NRS 689A.695, 689B.115, 689C.250) **Sections 18-20** of this bill delete those provisions.

An insurer that violates the provisions of **section 3, 6, 7 or 21** of this bill is guilty of a misdemeanor. (NRS 679A.180)

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

**Section 1. NRS 679A.160 is hereby amended to read as follows:**

679A.160 Except as otherwise provided by specific statute, no provision of this Code applies to:

1. Fraternal benefit societies, as identified in chapter 695A of NRS, except as stated in chapter 695A of NRS.

2. Hospital, medical or dental service corporations, as identified in chapter 695B of NRS, except as stated in chapter 695B of NRS.

3. Motor clubs, as identified in chapter 696A of NRS, except as stated in chapter 696A of NRS.

4. Bail agents, as identified in chapter 697 of NRS, except as stated in NRS 680B.025 to 680B.039, inclusive, and chapter 697 of NRS.

5. Risk retention groups, as identified in chapter 695E of NRS, except as stated in chapter 695E of NRS.

6. Captive insurers, as identified in chapter 694C of NRS, with respect to their activities as captive insurers, except as stated in chapter 694C of NRS.

7. Health and welfare plans arising out of collective bargaining under chapter 288 of NRS, except that the Commissioner may review the plan to ensure that the benefits are reasonable in relation to the premiums and that the fund is financially sound.

**8. Medicaid or the Children's Health Insurance Program as described in chapter 422 of NRS.**

~~{Section 1.}~~ **Sec. 1.5.** Chapter 679B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

**Sec. 2. 1. *The Office of the Consumer Advocate is hereby created within the Division. The Governor shall appoint the Consumer Advocate as the executive head of the office. The Consumer Advocate is not subject to the supervision or control of the Division or the Commissioner in carrying out his or her duties.***

**2. *The Governor shall appoint the Consumer Advocate for a term of 4 years. The Consumer Advocate is in the unclassified service of the State.***

**3. *The Consumer Advocate shall intervene in and represent the public interest in all public hearings conducted by the Commissioner pursuant to section 7 of this act.***

**4. *The Consumer Advocate may apply to the Commissioner for the issuance of a subpoena pursuant to NRS 679B.340 for the appearance of witnesses or the production of books, papers and documents in any public hearing in which the Consumer Advocate intervenes and may make arrangements for and pay the fees or costs of any witnesses and consultants necessary to the public hearing.***

**5. *The Commissioner may apply for any available grants and may accept any gifts, grants and donations from any source to defray the costs of the Consumer Advocate in carrying out his or her duties.***

~~{5.}~~ **6. *To the extent money is available for this purpose, the Commissioner may employ in the unclassified service of the State any***

*personnel necessary to assist with the duties and responsibilities of the Consumer Advocate.*

~~{6.}~~ **7.** *The Governor may remove the Consumer Advocate from office for inefficiency, neglect of duty or malfeasance in office.*

**Sec. 3. 1.** *An insurer that offers any ~~{policy, contract or plan of health insurance}~~ health benefit plan in this State shall provide the Consumer Advocate and the Division with copies of any proposed changes in rates and any other information used to calculate a rate or proposed rate increase or decrease. Information provided to the Consumer Advocate and the Division pursuant to this section must be submitted in an electronic format prescribed by the Commissioner.*

**2.** *The provisions of this section apply only to individual health benefit plans described in chapter 689A of NRS and group health plans for small employers described in chapter 689C of NRS.*

**Sec. 4.** NRS 679B.510 is hereby amended to read as follows:

679B.510 As used in NRS 679B.510 to 679B.560, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 679B.520, 679B.530 and 679B.540 have the meanings ascribed to them in those sections.

**Sec. 5.** Chapter 686B of NRS is hereby amended by adding thereto the provisions set forth as sections 6, 7 and 7.5 of this act.

**Sec. 6. 1.** *An insurer shall, on or before a date established by the Commissioner, publish on an Internet website maintained by the insurer the ~~{provisions, terms, rates,}~~ base premiums, certificates of coverage, projected loss ratio reported to the Department of Health and Human Services for the current fiscal year and the next following fiscal year ~~{of each policy, contract or plan of health insurance}~~ for each health benefit plan offered by the insurer in this State, and actual loss ratio ~~{of each policy, contract or plan of health insurance}~~ reported to the Department of Health and Human Services for the immediately preceding fiscal year for each health benefit plan offered by the insurer in this State. ~~{for the immediately preceding fiscal year.}~~ An insurer shall update the information published pursuant to this subsection each time the insurer changes or modifies ~~{any provision, term, rate or}~~ the base premium or certificate of coverage of such a ~~{policy, contract or}~~ health benefit plan and shall ensure that the information published pursuant to this subsection does not include any personally identifying information or confidential medical information.*

**2.** *The Division shall publish on an Internet website maintained by the Division a link to the Internet website maintained by each insurer on which information is published as required by subsection 1.*

3. The provisions of this section apply only to individual health benefit plans described in chapter 689A of NRS and group health plans for small employers described in chapter 689C of NRS.

4. As used in this section, "loss ratio" has the meaning ascribed to it in section 2718(b)(1)(A) of the Public Health Service Act, as amended by Public Law 111-148.

Sec. 7. 1. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a ~~[policy, contract or plan of health insurance]~~ health benefit plan and upon a determination by the Commissioner that the proposal is complete, the insurer and Commissioner shall publish on an Internet website maintained by the insurer and Division, respectively, notice of the filing, any information relating to the rate or proposed rate increase or decrease, other than confidential medical information, and the date by which a request for a public hearing on the rate or proposed rate increase or decrease must be submitted pursuant to subsection 2.

2. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a ~~[policy, contract or plan of health insurance]~~ health benefit plan:

(a) The insurer or rate service organization that files the rate or proposed rate increase or decrease or the Consumer Advocate may request that the Commissioner conduct a public hearing on the rate or proposed rate increase or decrease; and

(b) A consumer of health insurance may request that the Commissioner conduct a public hearing on the rate or proposed rate increase or decrease if:

(1) The proposed rate increase or decrease is more than 10 percent of the current rate; or

(2) The ~~[policy, contract or plan of health insurance]~~ health benefit plan represents more than 5 percent of its market segment in the State,

↳ by submitting to the Commissioner a written request for a public hearing not later than ~~[30]~~ 28 days after the date of first publication of the notice of the rate or proposed rate increase or decrease pursuant to subsection 1.

3. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a ~~[policy, contract or plan of health insurance]~~ health benefit plan or upon a request for a public hearing pursuant to subsection 2, the Commissioner may conduct a public hearing on the rate or proposed rate increase or decrease. In determining whether a public hearing should be held upon a request submitted by a consumer of health insurance covered by a group health plan for small employers, the Commissioner may, without limitation, consider whether the consumer of

health insurance is representative of a majority of the employees covered under the group health plan.

4. *If the Commissioner determines that a public hearing should be held pursuant to subsection 3, the Commissioner shall provide notice to the insurer or rate service organization and to the general public of the public hearing not later than 15 days before the date of the public hearing and shall conduct the public hearing not later than 45 days after a determination by the Commissioner that the filing of the rate or proposed rate increase or decrease is complete.*

5. *Upon receipt of the notice of a public hearing from the Commissioner, an insurer or rate service organization shall provide notice of the public hearing on its website and to each of its policyholders who would be affected by the proposed change at his or her mailing address or electronic mailing address not later than 10 days before the date of the public hearing.*

6. *To the extent practicable, a public hearing that is conducted pursuant to this section on a weekday must be conducted after 5 p.m.*

7. *If a public hearing is conducted pursuant to subsection 3, the Commissioner in addition to complying with the requirements of NRS 241.035, shall publish on an Internet website maintained by the Division:*

(a) *A transcript of the public hearing not later than ~~15~~ 30 days after the date of the hearing; and*

(b) *Any finding, decision or order of the Commissioner not later than 15 days after the date of issuance of the finding, decision or order.*

8. *The provisions of this section apply only to individual health benefit plans described in chapter 689A of NRS and group health plans for small employers described in chapter 689C of NRS.*

9. *As used in this section, “Consumer Advocate” means the Consumer Advocate appointed by the Governor pursuant to section 2 of this act.*

**Sec. 7.5. (Deleted by amendment.)**

**Sec. 8.** NRS 686B.010 is hereby amended to read as follows:

686B.010 1. The Legislature intends that NRS 686B.010 to 686B.1799, inclusive, *and sections 6, 7 and 7.5 of this act* be liberally construed to achieve the purposes stated in subsection 2, which constitute an aid and guide to interpretation but not an independent source of power.

2. The purposes of NRS 686B.010 to 686B.1799, inclusive, *and sections 6, 7 and 7.5 of this act* are to:

(a) Protect policyholders and the public against the adverse effects of excessive, inadequate or unfairly discriminatory rates;

(b) Encourage, as the most effective way to produce rates that conform to the standards of paragraph (a), independent action by and reasonable price competition among insurers;

(c) Provide formal regulatory controls for use if independent action and price competition fail;

(d) Authorize cooperative action among insurers in the rate-making process, and to regulate such cooperation in order to prevent practices that tend to bring about monopoly or to lessen or destroy competition;

(e) Encourage the most efficient and economic marketing practices; and

(f) Regulate the business of insurance in a manner that will preclude application of federal antitrust laws.

**Sec. 9.** NRS 686B.020 is hereby amended to read as follows:

686B.020 As used in NRS 686B.010 to 686B.1799, inclusive, *and sections 6, 7 and 7.5 of this act*, unless the context otherwise requires:

1. "Advisory organization," except as limited by NRS 686B.1752, means any person or organization which is controlled by or composed of two or more insurers and which engages in activities related to rate making. For the purposes of this subsection, two or more insurers with common ownership or operating in this State under common ownership constitute a single insurer.

An advisory organization does not include:

(a) A joint underwriting association;

(b) An actuarial or legal consultant; or

(c) An employee or manager of an insurer.

2. "Market segment" means any line or kind of insurance or, if it is described in general terms, any subdivision thereof or any class of risks or combination of classes.

3. "Rate service organization" means any person, other than an employee of an insurer, who assists insurers in rate making or filing by:

(a) Collecting, compiling and furnishing loss or expense statistics;

(b) Recommending, making or filing rates or supplementary rate information; or

(c) Advising about rate questions, except as an attorney giving legal advice.

4. "Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule, minimum premium, policy fee, rating rule, rule of underwriting relating to rates and any other information prescribed by regulation of the Commissioner.

**Sec. 10.** NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2, ~~and sections 6, 7 and 7.5 of this act, the provisions of~~ NRS 686B.010 to 686B.1799, inclusive, *and sections 6, 7 and 7.5 of this act* apply to all kinds and lines of direct insurance written on risks or operations in this State by any insurer authorized to do business in this State, except:

(a) Ocean marine insurance;

(b) Contracts issued by fraternal benefit societies;



- (c) Life insurance and credit life insurance;
- (d) Variable and fixed annuities;
- (e) ~~{Group and blanket health insurance and credit}~~ **Credit** health insurance;
- (f) Property insurance for business and commercial risks;
- (g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS; ~~and~~
- (h) Surety insurance ~~{; and~~
- (i) Contracts relating to Medicaid or the Children's Health Insurance Program as described in chapter 422 of NRS.**

2. The exclusions set forth in paragraphs (f) and (g) of subsection 1 extend only to issues related to the determination or approval of premium rates.

**Sec. 11.** NRS 686B.040 is hereby amended to read as follows:

686B.040 1. Except as otherwise provided in subsection 2, the Commissioner may by rule exempt any person or class of persons or any market segment from any or all of the provisions of NRS 686B.010 to 686B.1799, inclusive, ***and sections 6, 7 and 7.5 of this act*** if and to the extent that the Commissioner finds their application unnecessary to achieve the purposes of those sections.

2. The Commissioner may not, by rule or otherwise, exempt an insurer from the provisions of NRS 686B.010 to 686B.1799, inclusive, ***and sections 6, 7 and 7.5 of this act*** with regard to insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient.

**Sec. 12.** NRS 686B.070 is hereby amended to read as follows:

686B.070 1. Every authorized insurer and every rate service organization licensed under NRS 686B.140 which has been designated by any insurer for the filing of rates under subsection 2 of NRS 686B.090 shall file with the Commissioner ~~{all}~~ ***for approval:***

- (a) ~~{Rates}~~ ***All rates*** and proposed ***rate*** increases ~~{thereof}~~ ***or decreases;***
  - (b) ~~{Forms}~~ ***All forms*** of policies to which the rates apply;
  - (c) ~~{Supplementary}~~ ***All supplementary*** rate information; and
  - (d) ~~{Changes and amendments thereof,~~
- made by it for use in this state.} Any formula, supporting data or other information used to calculate the rate or proposed rate increase or decrease filed pursuant to paragraph (a).***

2. If an insurer makes a filing for a proposed increase in a rate for insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional

duty toward a patient, the insurer shall not include in the filing any component that is directly or indirectly related to the following:

(a) Capital losses, diminished cash flow from any dividends, interest or other investment returns, or any other financial loss that is materially outside of the claims experience of the professional liability insurance industry, as determined by the Commissioner.

(b) Losses that are the result of any criminal or fraudulent activities of a director, officer or employee of the insurer.

➔ If the Commissioner determines that a filing includes any such component, the Commissioner shall, pursuant to NRS 686B.110, disapprove the proposed increase, in whole or in part, to the extent that the proposed increase relies upon such a component.

**3. A rate or proposed rate increase or decrease filed pursuant to subsection 1 must not go into effect until approved pursuant to NRS 686B.110.**

**4. ~~Except for the filing of a rate or proposed rate increase or decrease of a policy, contract or plan of health insurance issued to a group pursuant to NRS 689B.026, the~~ The information submitted with the filing of a rate or proposed rate or rate increase pursuant to subsection 1, other than confidential medical information, ~~for~~ any information relating to the amount, terms or conditions of reimbursement pursuant to a contract between the insurer and a third party ~~for~~ or any information the Commissioner determines is a trade secret, is public and must be provided to any person upon written request.**

**5. As used in this section, "trade secret" has the meaning ascribed to it in subsection 5 of NRS 600A.030.**

**Sec. 13.** NRS 686B.090 is hereby amended to read as follows:

686B.090 1. An insurer shall establish rates and supplementary rate information for any market segment based on the factors in NRS 686B.060. If an insurer has insufficient creditable loss experience, it may use rates and supplementary rate information prepared by a rate service organization, with modification for its own expense and loss experience.

2. ~~Any~~ **Except as otherwise provided in section 7 of this act, an** insurer may discharge its obligation under subsection 1 of NRS 686B.070 by giving notice to the Commissioner that it uses rates and supplementary rate information prepared by a designated rate service organization, with such information about modifications thereof as are necessary fully to inform the Commissioner. The insurer's rates and supplementary rate information shall be deemed those filed from time to time by the rate service organization, including any amendments thereto as filed, subject to the modifications filed by the insurer.

**Sec. 14.** NRS 686B.110 is hereby amended to read as follows:

686B.110 1. The Commissioner shall consider each *rate or* proposed increase or decrease in the rate of any kind or line of insurance or subdivision thereof filed with the Commissioner pursuant to subsection 1 of NRS 686B.070. If the Commissioner finds that a proposed increase will result in a rate which is not in compliance with NRS 686B.050 or subsection 2 of NRS 686B.070, the Commissioner shall disapprove the proposal. The Commissioner shall approve or disapprove each proposal ~~that~~ :

(a) *If the Commissioner conducts a public hearing on the proposal pursuant to section 7 of this act, not later than ~~60~~ 30 days after ~~it is determined by~~ the date of the public hearing; or*

(b) *If no public hearing is held on the proposal pursuant to section 7 of this act, not later than ~~30~~ 45 days after the date on which the Commissioner determines the proposal to be complete pursuant to subsection ~~4~~ 5.*

2. If the Commissioner fails to approve or disapprove the proposal within ~~that~~ the period ~~that~~ specified in subsection 1, the proposal shall be deemed approved.

~~2~~ 3. Whenever an insurer has no legally effective rates as a result of the Commissioner's disapproval of rates or other act, the Commissioner shall on request specify interim rates for the insurer that are high enough to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the Commissioner. When new rates become legally effective, the Commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis must not be required.

~~3~~ 4. If the Commissioner disapproves a *rate or* proposed rate *increase or decrease* and an insurer requests a hearing to determine the validity of the action of the Commissioner, the insurer has the burden of showing compliance with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive ~~4~~ , and sections 6, 7 and 7.5 of this act. Any such hearing must be held:

(a) Within 30 days after the request for a hearing has been submitted to the Commissioner; or

(b) Within a period agreed upon by the insurer and the Commissioner.

➤ If the hearing is not held within the period specified in paragraph (a) or (b), or if the Commissioner fails to issue an order concerning the *rate or* proposed rate *increase or decrease* for which the hearing is held within 45 days after the hearing, the proposed rate *or proposed rate increase or decrease* shall be deemed approved.

~~4~~ 5. The Commissioner shall by regulation specify the documents or any other information which must be included in a proposal for a rate or to

increase or decrease a rate ~~submitted to~~ **filed with** the Commissioner pursuant to subsection 1 ~~of NRS 686B.070~~. Each such proposal shall be deemed complete upon its filing with the Commissioner, unless the Commissioner, within 15 business days after the proposal is filed with the Commissioner, determines that the proposal is incomplete because the proposal does not comply with the regulations adopted by the Commissioner pursuant to this subsection.

**Sec. 15.** NRS 686B.117 is hereby amended to read as follows:

686B.117 If a filing made with the Commissioner pursuant to ~~paragraph (a) of~~ subsection 1 of NRS 686B.070 pertains to insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient, any interested person, and any association of persons or organization whose members may be affected, may intervene as a matter of right in any hearing or other proceeding conducted to determine whether the applicable rate or proposed increase thereto:

1. Complies with the standards set forth in NRS 686B.050 and subsection 2 of NRS 686B.070.

2. Should be approved or disapproved.

**Sec. 16.** NRS 687B.120 is hereby amended to read as follows:

687B.120 1. No life or health insurance policy or contract, annuity contract form, policy form, health care plan or plan for dental care, whether individual, group or blanket, including those to be issued by a health maintenance organization, organization for dental care or prepaid limited health service organization, or application form where a written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, or form of individual certificate or statement of coverage to be issued under group or blanket contracts, or by a health maintenance organization, organization for dental care or prepaid limited health service organization, may be delivered or issued for delivery in this state, unless the form has been filed with and approved by the Commissioner. ~~[This subsection does not apply to any special rider or endorsement which relates to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies, which special riders or endorsements are used at the request of the individual policyholder, contract holder or certificate holder.]~~ As to group insurance policies effectuated and delivered outside this state but covering persons resident in this state, the group certificates to be delivered or issued for delivery in this state must be filed, for informational purposes only, with the Commissioner at the request of the Commissioner.

2. Every ~~such~~ filing **made pursuant to subsection 1** must be made not less than 45 days in advance of any ~~such~~ delivery ~~of~~ **pursuant to**

**subsection 1.** At the expiration of 45 days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the Commissioner. Approval of any such form by the Commissioner constitutes a waiver of any unexpired portion of such waiting period. The Commissioner may extend by not more than an additional 30 days the period within which the Commissioner may so affirmatively approve or disapprove any such form, by giving notice to the insurer of the extension before expiration of the initial 45-day period. At the expiration of any such period as so extended, and in the absence of prior affirmative approval or disapproval, any such form shall be deemed approved. The Commissioner may at any time, after notice and for cause shown, withdraw any such approval.

3. Any order of the Commissioner disapproving any such form or withdrawing a previous approval must state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form is effective at the expiration of such a period, not less than 30 days after the giving of notice of withdrawal, as the Commissioner in such notice prescribes.

4. The Commissioner may, by order, exempt from the requirements of this section for so long as the Commissioner deems proper any insurance document or form or type thereof specified in the order, to which, in the opinion of the Commissioner, this section may not practicably be applied, or the filing and approval of which are, in the opinion of the Commissioner, not desirable or necessary for the protection of the public.

5. Appeals from orders of the Commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in NRS 679B.310 to 679B.370, inclusive.

**Sec. 17.** (Deleted by amendment.)

**Sec. 18.** NRS 689A.695 is hereby amended to read as follows:

689A.695 An individual carrier shall make the information and documents described in NRS 689A.680 to 689A.700, inclusive, available to the Commissioner upon request. ~~{Except in cases of violations of the provisions of this chapter, the information, other than the premium rates charged by the individual carrier, is proprietary, constitutes a trade secret and is not subject to disclosure by the Commissioner to persons outside of the Division except as agreed to by the individual carrier or as ordered by a court of competent jurisdiction.}~~

**Sec. 19.** NRS 689B.115 is hereby amended to read as follows:

689B.115 An insurer providing blanket health insurance shall make all information concerning rates available to the Commissioner upon request. ~~{The information is proprietary, constitutes a trade secret, and may not be~~

~~disclosed by the Commissioner to any person outside the Division except as agreed by the insurer or ordered by a court of competent jurisdiction.}]~~

**Sec. 20.** NRS 689C.250 is hereby amended to read as follows:

689C.250 A carrier serving small employers shall make the information and documents described in NRS 689C.210 to 689C.240, inclusive, available to the Commissioner upon request. ~~[Except in cases of violations of NRS 689C.015 to 689C.355, inclusive, the information is proprietary, constitutes a trade secret, and is not subject to disclosure by the Commissioner to persons outside of the Division except as agreed to by the carrier or as ordered by a court of competent jurisdiction.]]~~

**Sec. 21.** Section 7 of this act is hereby amended to read as follows:

Sec. 7. 1. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a health benefit plan and upon a determination by the Commissioner that the proposal is complete, the insurer and Commissioner shall publish on an Internet website maintained by the insurer and Division, respectively, notice of the filing, any information relating to the rate or proposed rate increase or decrease, other than confidential medical information, and the date by which a request for a public hearing on the rate or proposed rate increase or decrease must be submitted pursuant to subsection 2.

2. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a health benefit plan:

(a) The insurer or rate service organization that files the rate or proposed rate increase or decrease ~~for the Consumer Advocate]~~ may request that the Commissioner conduct a public hearing on the rate or proposed rate increase or decrease; and

(b) A consumer of health insurance may request that the Commissioner conduct a public hearing on the rate or proposed rate increase or decrease if:

(1) The proposed rate increase or decrease is more than 10 percent of the current rate; or

(2) The health benefit plan represents more than 5 percent of its market segment in the State,

➡ by submitting to the Commissioner a written request for a public hearing not later than 28 days after the date of first publication of the notice of the rate or proposed rate increase or decrease pursuant to subsection 1.

3. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a health benefit plan or upon a request for a public hearing pursuant to subsection 2, the Commissioner may conduct a public hearing on the rate or proposed rate increase or decrease. In determining whether a public hearing should be held upon a request submitted by a consumer of health insurance covered by a group health plan for small employers, the Commissioner may, without limitation, consider whether the

consumer of health insurance is representative of a majority of the employees covered under the group health plan.

4. If the Commissioner determines that a public hearing should be held pursuant to subsection 3, the Commissioner shall provide notice to the insurer or rate service organization and to the general public of the public hearing not later than 15 days before the date of the public hearing and shall conduct the public hearing not later than 45 days after a determination by the Commissioner that the filing of the rate or proposed rate increase or decrease is complete.

5. Upon receipt of the notice of a public hearing from the Commissioner, an insurer or rate service organization shall provide notice of the public hearing on its website and to each of its policyholders who would be affected by the proposed change at his or her mailing address or electronic mailing address not later than 10 days before the date of the public hearing.

6. To the extent practicable, a public hearing that is conducted pursuant to this section on a weekday must be conducted after 5 p.m.

7. If a public hearing is conducted pursuant to subsection 3, the Commissioner, in addition to complying with the requirements of NRS 241.035, shall publish on an Internet website maintained by the Division:

(a) A transcript of the public hearing not later than 30 days after the date of the hearing; and

(b) Any finding, decision or order of the Commissioner not later than 15 days after the date of issuance of the finding, decision or order.

8. The provisions of this section apply only to individual health benefit plans described in chapter 689A of NRS and group health plans for small employers described in chapter 689C of NRS.

~~[9. — As used in this section, “Consumer Advocate” means the Consumer Advocate appointed by the Governor pursuant to section 2 of this act.]~~

**Sec. 22. (Deleted by amendment.)**

**Sec. 23. 1. This section and sections 1 to 4, inclusive, 10, 12 and 15 to 20, inclusive, and 22 of this act become effective on July 1, 2011.**

**2. Sections 5 to 9, inclusive, 11, 13 and 14 of this act become effective on October 1, 2011.**

**3. Sections 2, 3, ~~17,~~ 13 and 14 of this act expire by limitation on the date on which the Governor by proclamation declares that the money for funding the Office of the Consumer Advocate will no longer be available.**

~~4. Sections~~

**4. Section 21 ~~and 22~~ of this act ~~become~~ **becomes** effective on the date on which the Governor by proclamation declares that the money for funding the Office of the Consumer Advocate will no longer be available.**

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 309.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 398.

The following Senate amendment was read:

Amendment No. 619.

AN ACT relating to commercial tenancies; prohibiting a landlord's interference with a tenant's use of commercial premises under certain circumstances; establishing a procedure for a tenant to recover possession of commercial premises following a lockout; ~~establishing requirements for accounting for, charges against and refund of security deposits; prohibiting a landlord from assessing charges against a tenant except under certain circumstances;~~ setting forth the circumstances under which a tenant can be presumed to have abandoned commercial premises; repealing and reenacting provisions relating to the disposal of personal property abandoned by a tenant on commercial premises; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

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

**Section 15.5 of this bill provides that the justice court has jurisdiction over any civil action or proceeding concerning the exclusion of a tenant from commercial premises or the summary eviction of a tenant from commercial premises in which no party is seeking damages. Section 15.5 also provides that certain provisions of existing law governing actions for the recovery of a debt secured by a mortgage or other lien and the doctrines of res judicata and collateral estoppel do not apply to: (1) a claim by a landlord for contractual damages which is brought subsequent to an action by the landlord for the summary eviction of a tenant from commercial premises; or (2) an action by a landlord for the summary eviction of a tenant from commercial premises which is brought subsequent to a claim by the landlord for contractual damages.**

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

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



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

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

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

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

**Sec. 3.** *“Abandoned personal property” means any personal property which is left unattended on commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has an ownership interest in the personal property within 14 days after the date on which the landlord mailed, by certified mail, return receipt requested, notice of the landlord’s intention to dispose of the personal property, as required by paragraph (a) of subsection 1 of section 16 of this act.*

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

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

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

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

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

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

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

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

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

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

Sec. 11. ~~*"Security deposit" means any advance of money, other than a deposit for a rental application or a payment in advance of rent, that is intended primarily to secure performance under a rental agreement.*~~  
**(Deleted by amendment.)**

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

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

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

2. *A landlord may not remove:*

- (a) A door, window or attic hatchway cover;*
- (b) A lock, latch, hinge, hinge pin, doorknob or other mechanism connected to a door, window or attic hatchway cover; or*
- (c) Furniture, fixtures or appliances furnished by the landlord,*  
*↪ from commercial premises unless the landlord removes the item for a bona fide repair or replacement. If a landlord removes any of the items listed in this subsection for a bona fide repair or replacement, the repair or replacement must be promptly performed.*

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

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

4. *If a landlord or a landlord's agent changes the door lock of commercial premises leased to a tenant who is delinquent in paying rent, the landlord or agent must for a period of not less than 5 business days, place a written notice on the front door of the commercial premises stating the name and the address or telephone number of the person or company from which the new key may be obtained. The new key is required to be provided only during the regular business hours of the tenant and only if the tenant pays the delinquent rent.*

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

(a) *Recover possession of the commercial premises ; ~~for terminate the rental agreement;~~ and*

(b) *Recover from the landlord an amount equal to the sum of the tenant's actual damages, one month's rent or \$500, whichever is greater, reasonable attorney's fees and court costs, less any delinquent rents or other sums for which the tenant is liable to the landlord.*

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

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

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

3. *If a tenant has complied with subsection 2 and if the court reasonably believes an unlawful lockout may have occurred, the court :*

(a) *Shall issue an order requiring the tenant to post a bond in an amount equal to 1 month of rent; and*

(b) *Upon the posting of the bond, may issue, ex parte, a temporary writ of restitution that entitles the tenant to immediate and temporary possession of the commercial premises, pending a final hearing on the tenant's verified complaint for reentry.*

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

5. ~~*[A landlord is entitled to]*~~ *The court shall hold a hearing on a tenant's verified complaint for reentry. A temporary writ of restitution must notify the landlord of the ~~[right to a hearing]~~ pendency of the matter and the date of the hearing. The hearing must be held not earlier than the first judicial day and not later than the ~~[seventh]~~ fifth judicial day after the date on which the ~~[landlord requests a hearing]~~ court issues the temporary writ of restitution.*

6. ~~*[If a landlord fails to request a hearing on a tenant's verified complaint for reentry before the eighth day after the date of service of the*~~

~~temporary writ of restitution on the landlord under subsection 4, a judgment for court costs may be rendered against the landlord.~~

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

~~8.]~~ *7. If a writ of restitution is issued, the writ supersedes a temporary writ of restitution.*

~~9.]~~ *8. If the landlord or the person on whom a writ of restitution is served fails to immediately comply with the writ or later disobeys the writ, the failure is grounds for contempt of court against the landlord or the person on whom the writ was served, under chapter 22 of NRS. If the writ is disobeyed, the tenant or the tenant's attorney may file in the court in which the reentry action is pending an affidavit stating the name of the person who has disobeyed the writ and describing the acts or omissions constituting the disobedience. On receipt of an affidavit, the court shall issue an order to show cause, directing the person to appear on a designated date and show cause why the person should not be adjudged in contempt of court. If the court finds, after considering the evidence at the hearing, that the person has directly or indirectly disobeyed the writ, the court may commit the person to jail without bail until the person purges himself or herself of the contempt in a manner and form as the court may direct. If the person disobeyed the writ before receiving the order to show cause but has complied with the writ after receiving the order, the court may find the person in contempt and punish the person under chapter 22 of NRS.*

~~10.]~~ *9. This section does not affect a tenant's right to pursue a separate cause of action under section 14 of this act.*

~~11.]~~ *10. If a tenant in bad faith files a sworn complaint for reentry resulting in a writ of restitution being served on the landlord or landlord's agent, the landlord may in a separate cause of action recover from the tenant an amount equal to actual damages, one month's rent or \$500, whichever is greater, reasonable attorney's fees, and costs of court, less any sums for which the landlord is liable to the tenant.*

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

~~13.]~~ *11. This section does not affect the rights of a landlord or tenant in a forcible detainer, unlawful detainer or forcible entry and detainer action.*

*Sec. 15.5. 1. Except as otherwise provided in subsection 2, the justice court has jurisdiction over any civil action or proceeding concerning the*

exclusion of a tenant from commercial premises or the summary eviction of a tenant from commercial premises in which no party is seeking damages.

2. If a landlord combines an action for summary eviction of a tenant from commercial premises with a claim to recover contractual damages, jurisdiction over the claims rests with the court which has jurisdiction over the amount in controversy.

3. The provisions of NRS 40.430 and the doctrines of res judicata and collateral estoppel do not apply to:

(a) A claim by a landlord for contractual damages which is brought subsequent to an action by the landlord for the summary eviction of a tenant from commercial premises; or

(b) An action by a landlord for the summary eviction of a tenant from commercial premises which is brought subsequent to a claim by the landlord for contractual damages.

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

(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

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

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

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

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

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

*3. If a written agreement between a landlord and a person who has an ownership interest in any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the person with respect to the removal and disposal of the abandoned personal property.*

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

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

~~2. A claim of a tenant to a security deposit to which the tenant is entitled takes priority over the claim of any creditor of the landlord, including a trustee in bankruptcy.] (Deleted by amendment.)~~

~~Sec. 18. [1. Before returning a security deposit, a landlord may deduct from the deposit damages and charges for which the tenant is legally liable under the rental agreement or damages and charges that result from a breach of the rental agreement.~~

~~2. A landlord may not retain any portion of a security deposit to cover normal wear and tear. For the purposes of this subsection, "normal wear and tear" means deterioration that results from the intended use of the commercial premises, including breakage or malfunction because of age or deteriorated condition, but the term does not include deterioration that results from negligence, carelessness, accident or abuse of the commercial premises, equipment, or chattels by the tenant or by a guest or invitee of the tenant.~~

~~3. If a landlord retains all or part of a security deposit under this section, the landlord shall give to the tenant the balance of the security deposit, if any, together with a written description and itemized list of all deductions. The landlord is not required to give the tenant a description and itemized list of deductions if:~~

~~(a) The tenant owes rent when the tenant surrenders possession of the commercial premises; and~~

~~(b) No controversy exists concerning the amount of rent owed.] (Deleted by amendment.)~~

~~Sec. 19. [1. Except as otherwise provided in subsection 4, if an owner's interest in commercial premises is terminated by sale, assignment, death, appointment of a receiver, bankruptcy or otherwise, the new owner~~

~~is liable with respect to the security deposit pursuant to sections 2 to 24, inclusive, of this act from the date title to the premises is acquired, regardless of whether an acknowledgment is given to the tenant under subsection 2.~~

~~2.—Except as otherwise provided in subsection 1, a person who no longer owns an interest in the commercial premises remains liable for a security deposit received while the person was the owner until the new owner delivers to the tenant a signed statement acknowledging that the new owner has received and is responsible for the tenant's security deposit and specifying the exact dollar amount of the deposit.~~

~~3.—The amount of a security deposit for which a new owner is liable pursuant to this section is the greater of:~~

~~(a) The amount provided in the tenant's rental agreement; or~~

~~(b) The amount provided in an estoppel certificate prepared by the owner at the time the rental agreement was executed or prepared by the new owner at the time the commercial premises is transferred.~~

~~4.—Subsection 1 does not apply to a person who acquires title to the premises by foreclosure.} (Deleted by amendment.)~~

~~Sec. 20. {A landlord shall keep accurate records of all security deposits.} (Deleted by amendment.)~~

~~Sec. 21. {1.—A landlord is not obligated to return a security deposit to a tenant or give the tenant a written description of damages and charges until the tenant provides to the landlord in writing a mailing address to which the security deposit or written description are to be sent.~~

~~2.—A tenant does not forfeit the right to a refund of a security deposit or the right to receive a description of damages and charges for failing to give a mailing address to the landlord.} (Deleted by amendment.)~~

~~Sec. 22. {1.—A tenant may not withhold payment of any portion of the last month's rent on grounds that a security deposit is security for unpaid rent.~~

~~2.—A tenant who violates this section is presumed to have acted in bad faith. A tenant who in bad faith violates this section is liable to the landlord for an amount equal to three times the rent wrongfully withheld and the landlord's reasonable attorney's fees in an action to recover the rent.} (Deleted by amendment.)~~

~~Sec. 23. {1.—A landlord who in bad faith retains a security deposit in violation of sections 2 to 24, inclusive, of this act is liable for an amount equal to the sum of \$100, three times the portion of the deposit wrongfully withheld, and the tenant's reasonable attorney's fees incurred in an action to recover the deposit after the period prescribed for returning the deposit expires.~~

~~2.—A landlord who in bad faith does not provide a written description and itemized list of damages and charges in violation of sections 2 to 24, inclusive, of this act:~~

~~(a) Forfeits the right to withhold any portion of the security deposit or to bring suit against the tenant for damages to the commercial premises; and~~  
~~(b) Is liable for the tenant's reasonable attorney's fees in an action to recover the deposit.~~

~~3.—In an action brought by a tenant under sections 2 to 24, inclusive, of this act, the landlord has the burden of proving that the retention of any portion of a security deposit was reasonable.~~

~~4.—Except as otherwise provided in subsection 1 of section 21 of this act, a landlord who fails to return a security deposit or to provide a written description and itemized list of deductions within 60 days after the date the tenant surrenders possession of the commercial premises is presumed to have acted in bad faith.] (Deleted by amendment.)~~

Sec. 24. ~~[1.—A landlord may not assess a charge, excluding a charge for rent or physical damage to the commercial premises, to a tenant unless the amount of the charge or the method by which the charge is to be computed is stated in the rental agreement, an exhibit or attachment that is part of the rental agreement or an amendment to the rental agreement.~~

~~2.—This section does not affect the right of a landlord to assess a charge or obtain a remedy allowed under a statute or common law.] (Deleted by amendment.)~~

Sec. 25. NRS 118.171 is hereby amended to read as follows:

118.171 As used in NRS 118.171 to ~~[118.207,]~~ **118.205**, inclusive, unless the context otherwise requires:

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

~~(a) Mailed, by certified mail, return receipt requested, notice of the landlord's intention to dispose of the personal property, as required by subparagraph (1) of paragraph (a) of subsection 1 of NRS 118.207; or~~

~~(b) Provided notice to a person who has a perfected lien on, or a perfected security interest in, the personal property that the personal property has been left on the premises, as required by subparagraph (2) of paragraph (a) of subsection 1 of NRS 118.207.~~

~~2.]~~ "Real property" includes an apartment, a dwelling, a mobile home that is owned by a landlord and located on property owned by the landlord and commercial premises.



~~{3-}~~ 2. “Rental agreement” means an agreement to lease or sublease real property for a term less than life which provides for the periodic payment of rent.

~~{4-}~~ 3. “Tenant” means a person who has the right to possess real property pursuant to a rental agreement.

**Sec. 26.** NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord’s agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➡ As used in this subsection, “day of service” means the day the landlord or the landlord’s agent personally delivers the notice to the tenant. If personal service was not so delivered, the “day of service” means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the “day of service” shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord’s agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or the landlord’s agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord’s agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance,

the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and  
(b) Advise the tenant of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.  
(2) The amount of periodic rent reserved.  
(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.  
(4) The date the rental payments became delinquent.  
(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.  
(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.  
(9) A copy of the signed written rental agreement, if any.  
(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the

landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS ~~118.207 or~~ 118A.460 **or section 16 of this act** for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

- (a) The tenant has vacated or been removed from the premises; and
  - (b) A copy of those charges has been requested by or provided to the tenant,
- ➡ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

- (a) Determine the costs, if any, claimed by the landlord pursuant to NRS ~~118.207 or~~ 118A.460 **or section 16 of this act** and any accumulating daily costs; and
- (b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the

tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

**Sec. 26.5. NRS 40.430 is hereby amended to read as follows:**

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, **and except as otherwise provided in section 15.5 of this act,** there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.430 to 40.459, inclusive. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.

4. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

5. Within 30 days after a sale of property is conducted pursuant to this section, the sheriff who conducted the sale shall record the sale of the property in the office of the county recorder of the county in which the property is located.

6. As used in this section, an "action" does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 of NRS or by the Uniform Commercial Code as enacted in any other state.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Which is exempted from the provisions of this section by specific statute.

(p) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

**Sec. 27.** NRS 118.207 is hereby repealed.

## TEXT OF REPEALED SECTION

**118.207 Disposal of personal property abandoned by tenant on commercial premises; notice; procedure by landlord; releasing property to tenant; limitation on landlord's liability.**

1. Except as otherwise provided in subsection 2, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:

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

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

(2) The landlord has taken reasonable steps to:

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

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

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

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

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

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

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

Assemblyman Atkinson moved that the Assembly concur in the Senate Amendment No. 619 to Assembly Bill No. 398.

Remarks by Assemblyman Atkinson.

Motion carried.

Amendment No. 778.

AN ACT relating to commercial tenancies; prohibiting a landlord's interference with a tenant's use of commercial premises under certain circumstances; establishing a procedure for a tenant to recover possession of commercial premises following a lockout; establishing requirements for accounting for, charges against and refund of security deposits; prohibiting a landlord from assessing charges against a tenant except under certain circumstances; setting forth the circumstances under which a tenant can be presumed to have abandoned commercial premises; repealing and reenacting provisions relating to the disposal of personal property abandoned by a tenant on commercial premises; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

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

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

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

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

**Section 26.3 of this bill revises provisions governing the granting of a stay of execution to a tenant of commercial property who appeals an order of eviction by providing that the tenant may obtain a stay of execution only upon the issuance of a stay pursuant to Rule 8 of the Nevada Rules of Appellate Procedure and the posting of a supersedeas bond in the amount of 100 percent of the unpaid rent claim of the landlord.**

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

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

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

**Sec. 3.** *“Abandoned personal property” means any personal property which is left unattended on commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has an ownership interest in the personal property within 14 days after the date on which the landlord mailed, by certified mail, return receipt requested, notice of the landlord’s intention to dispose of the personal property, as required by paragraph (a) of subsection 1 of section 16 of this act.*

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

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

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

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

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

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

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

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



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

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

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

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

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

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

2. A landlord may not remove:

- (a) A door, window or attic hatchway cover;
- (b) A lock, latch, hinge, hinge pin, doorknob or other mechanism connected to a door, window or attic hatchway cover; or
- (c) Furniture, fixtures or appliances furnished by the landlord,  
↪ from commercial premises unless the landlord removes the item for a bona fide repair or replacement. If a landlord removes any of the items listed in this subsection for a bona fide repair or replacement, the repair or replacement must be promptly performed.

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

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

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

*business hours of the tenant and only if the tenant pays the delinquent rent.*

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

*(a) Recover possession of the commercial premises or terminate the rental agreement; and*

*(b) Recover from the landlord an amount equal to the sum of the tenant's actual damages, one month's rent or \$500, whichever is greater, reasonable attorney's fees and court costs, less any delinquent rents or other sums for which the tenant is liable to the landlord.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 16. 1. *Except as otherwise provided in subsection 3, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property,*

*regardless of its character, left on the commercial premises without incurring any civil or criminal liability:*

*(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.*

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

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

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

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

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

*3. If a written agreement between a landlord and a person who has an ownership interest in any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the person with respect to the removal and disposal of the abandoned personal property.*

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

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

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

*Sec. 18. 1. Before returning a security deposit, a landlord may deduct from the deposit damages and charges for which the tenant is*

*legally liable under the rental agreement or damages and charges that result from a breach of the rental agreement.*

2. *A landlord may not retain any portion of a security deposit to cover normal wear and tear. For the purposes of this subsection, “normal wear and tear” means deterioration that results from the intended use of the commercial premises, including breakage or malfunction because of age or deteriorated condition, but the term does not include deterioration that results from negligence, carelessness, accident or abuse of the commercial premises, equipment, or chattels by the tenant or by a guest or invitee of the tenant.*

3. *If a landlord retains all or part of a security deposit under this section, the landlord shall give to the tenant the balance of the security deposit, if any, together with a written description and itemized list of all deductions. The landlord is not required to give the tenant a description and itemized list of deductions if:*

*(a) The tenant owes rent when the tenant surrenders possession of the commercial premises; and*

*(b) No controversy exists concerning the amount of rent owed.*

Sec. 19. 1. *Except as otherwise provided in subsection 4, if an owner’s interest in commercial premises is terminated by sale, assignment, death, appointment of a receiver, bankruptcy or otherwise, the new owner is liable with respect to the security deposit pursuant to sections 2 to 24, inclusive, of this act from the date title to the premises is acquired, regardless of whether an acknowledgment is given to the tenant under subsection 2.*

2. *Except as otherwise provided in subsection 1, a person who no longer owns an interest in the commercial premises remains liable for a security deposit received while the person was the owner until the new owner delivers to the tenant a signed statement acknowledging that the new owner has received and is responsible for the tenant’s security deposit and specifying the exact dollar amount of the deposit.*

3. *The amount of a security deposit for which a new owner is liable pursuant to this section is the greater of:*

*(a) The amount provided in the tenant’s rental agreement; or*

*(b) The amount provided in an estoppel certificate prepared by the owner at the time the rental agreement was executed or prepared by the new owner at the time the commercial premises is transferred.*

4. *Subsection 1 does not apply to a person who acquires title to the premises by foreclosure.*

Sec. 20. *A landlord shall keep accurate records of all security deposits.*

Sec. 21. 1. *A landlord is not obligated to return a security deposit to a tenant or give the tenant a written description of damages and charges*

*until the tenant provides to the landlord in writing a mailing address to which the security deposit or written description are to be sent.*

*2. A tenant does not forfeit the right to a refund of a security deposit or the right to receive a description of damages and charges for failing to give a mailing address to the landlord.*

**Sec. 22. 1.** *A tenant may not withhold payment of any portion of the last month's rent on grounds that a security deposit is security for unpaid rent.*

*2. A tenant who violates this section is presumed to have acted in bad faith. A tenant who in bad faith violates this section is liable to the landlord for an amount equal to three times the rent wrongfully withheld and the landlord's reasonable attorney's fees in an action to recover the rent.*

**Sec. 23. 1.** *A landlord who in bad faith retains a security deposit in violation of sections 2 to 24, inclusive, of this act is liable for an amount equal to the sum of \$100, three times the portion of the deposit wrongfully withheld, and the tenant's reasonable attorney's fees incurred in an action to recover the deposit after the period prescribed for returning the deposit expires.*

*2. A landlord who in bad faith does not provide a written description and itemized list of damages and charges in violation of sections 2 to 24, inclusive, of this act:*

*(a) Forfeits the right to withhold any portion of the security deposit or to bring suit against the tenant for damages to the commercial premises; and*

*(b) Is liable for the tenant's reasonable attorney's fees in an action to recover the deposit.*

*3. In an action brought by a tenant under sections 2 to 24, inclusive, of this act, the landlord has the burden of proving that the retention of any portion of a security deposit was reasonable.*

*4. Except as otherwise provided in subsection 1 of section 21 of this act, a landlord who fails to return a security deposit or to provide a written description and itemized list of deductions within 60 days after the date the tenant surrenders possession of the commercial premises is presumed to have acted in bad faith.*

**Sec. 24. 1.** *A landlord may not assess a charge, excluding a charge for rent or physical damage to the commercial premises, to a tenant unless the amount of the charge or the method by which the charge is to be computed is stated in the rental agreement, an exhibit or attachment that is part of the rental agreement or an amendment to the rental agreement.*

*2. This section does not affect the right of a landlord to assess a charge or obtain a remedy allowed under a statute or common law.*

**Sec. 25.** NRS 118.171 is hereby amended to read as follows:

118.171 As used in NRS 118.171 to ~~118.207~~, **118.205**, inclusive, unless the context otherwise requires:

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

~~(a) Mailed, by certified mail, return receipt requested, notice of the landlord's intention to dispose of the personal property, as required by subparagraph (1) of paragraph (a) of subsection 1 of NRS 118.207; or~~

~~(b) Provided notice to a person who has a perfected lien on, or a perfected security interest in, the personal property that the personal property has been left on the premises, as required by subparagraph (2) of paragraph (a) of subsection 1 of NRS 118.207.~~

~~2.]~~ "Real property" includes an apartment, a dwelling, a mobile home that is owned by a landlord and located on property owned by the landlord and commercial premises.

~~3.]~~ 2. "Rental agreement" means an agreement to lease or sublease real property for a term less than life which provides for the periodic payment of rent.

~~4.]~~ 3. "Tenant" means a person who has the right to possess real property pursuant to a rental agreement.

**Sec. 26.** NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➤ As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of

service” shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord’s agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or the landlord’s agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord’s agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord’s agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of the tenant’s right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord’s agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or the landlord’s agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month’s rent, by the tenant.



- (4) The date the rental payments became delinquent.
- (5) The length of time the tenant has remained in possession without paying rent.
- (6) The amount of rent claimed due and delinquent.
- (7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.
- (8) A copy of the written notice served on the tenant.
- (9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS ~~118.207 or~~ 118A.460 **or section 16 of this act** for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

- (a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

↳ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS ~~118.207 or~~ 118A.460 **or section 16 of this act** and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

**Sec. 26.3. NRS 40.385 is hereby amended to read as follows:**

40.385 Upon an appeal from an order entered pursuant to NRS 40.253:

1. Except as otherwise provided in this subsection, a stay of execution may be obtained by filing with the trial court a bond in the amount of \$250 to cover the expected costs on appeal. ~~In an action concerning a lease of commercial property or any other property for which the monthly rent exceeds \$1,000, the court may, upon its own motion or that of a party, and upon a showing of good cause, order an additional bond to be posted to cover the expected costs on appeal.~~ A surety upon the bond submits to the jurisdiction of the appellate court and irrevocably appoints the clerk of that court as the surety's agent upon whom papers affecting the surety's liability upon the bond may be served. Liability of a surety may be enforced, or the bond may be released, on motion in the appellate court without independent action. **A tenant of commercial property may obtain a stay of execution only upon the issuance of a stay pursuant to Rule 8 of the Nevada Rules of Appellate Procedure and the posting of a supersedeas bond in the amount of 100 percent of the unpaid rent claim of the landlord.**

2. A tenant who retains possession of the premises that are the subject of the appeal during the pendency of the appeal shall pay to the landlord rent in the amount provided in the underlying contract between the tenant and the landlord as it becomes due. If the tenant fails to pay such rent, the landlord may initiate new proceedings for a summary eviction by serving the tenant with a new notice pursuant to NRS 40.253.

**Sec. 27.** NRS 118.207 is hereby repealed.

#### TEXT OF REPEALED SECTION

**118.207 Disposal of personal property abandoned by tenant on commercial premises; notice; procedure by landlord; releasing property to tenant; limitation on landlord's liability.**

1. Except as otherwise provided in subsection 2, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:

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

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

(2) The landlord has taken reasonable steps to:

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

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

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

requested, a written notice stating that the abandoned personal property has been left on the premises.

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

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

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

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

Assemblyman Atkinson moved that the Assembly concur in the Senate Amendment No. 778 to Assembly Bill No. 398.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 393.

The following Senate amendment was read:

Amendment No. 759.

AN ACT relating to educational personnel; **requiring the board of trustees of each school district and the governing body of each charter school to adopt a policy requiring the licensed employees of the school district or charter school to report information concerning arrests for or convictions of certain crimes;** requiring the Commission on Professional Standards in Education to include in the fee for the renewal of licensure of teachers and other educational personnel the amount required for processing the fingerprints of the applicant for renewal by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation; requiring the Central Repository to investigate the criminal background of each applicant for renewal of a license submitted to the Superintendent of Public Instruction; revising other provisions governing the renewal of licensure of teachers and other educational personnel; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Under existing law, the Department of Education is required to establish a procedure for the notification, tracking and monitoring of the status of criminal cases involving persons who are licensed by the Superintendent of Public Instruction and for the reporting by a school district or charter school to the Department if a licensed employee is arrested for certain crimes. (NRS 391.053-391.059) Section 1 of this bill requires the board of trustees of each school district and the governing body of each charter school to adopt a policy which requires a licensed employee of the school district or charter school to report to the school district or charter school if the employee is arrested for or convicted of a crime which is required to be reported pursuant to the policy.**

Under existing law, an applicant for a license to teach must submit to the Superintendent of Public Instruction with his or her application a complete set of his or her fingerprints and written permission authorizing the Superintendent to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant. (NRS 391.033) Also under existing law, the Central Repository is required to notify the Superintendent of Public Instruction if the background check indicates that an applicant for licensure has been convicted of certain criminal violations. In addition, the Central Repository is required to notify a county school district, charter school or private school if the investigation of an employee of the school district, charter school or private school whose fingerprints are submitted to the Central Repository indicates that the person has been convicted of certain criminal violations. (NRS 179A.075) An applicant for renewal of a license issued by the Superintendent of Public Instruction is not required to undergo a subsequent background investigation of his or her criminal history upon renewal of the license.

Under existing law, the Commission on Professional Standards in Education is required to fix fees of not less than \$65 for the issuance and renewal of a license to teach. (NRS 391.040) Existing administrative regulations of the Commission prescribe a fee for: (1) initial licensure of \$110, plus the amount charged for the criminal history of the applicant; and (2) renewal of a license of \$80. (NAC 391.045, 391.070) **Section ~~14~~ 3** of this bill requires the Commission to set the fees for renewal of a license to include the fees for processing the fingerprints of the applicant for renewal by the Central Repository and the Federal Bureau of Investigation. **Section ~~13~~ 4** of this bill requires the Central Repository to investigate the criminal history of applicants for renewal of a license submitted to the Superintendent of Public Instruction. **Section ~~14~~ 5** of this bill makes the provisions of the

bill effective on July 1, 2011, for the purposes of adopting regulations **and policies** and performing any other preparatory administrative tasks and on January 1, 2012, for all other purposes.

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

**Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:**

**The board of trustees of each school district and the governing body of each charter school shall adopt a policy which requires a licensed employee of the school district or charter school to report to the school district or charter school if the employee is arrested for or convicted of a crime. The policy must include, without limitation, an identification of:**

- 1. The crimes for which an arrest or conviction must be reported;**
- 2. The person to whom the report must be made; and**
- 3. The time period after the arrest or conviction in which the report must be made.**

~~{Section 1.}~~ **Sec. 2.** NRS 391.033 is hereby amended to read as follows:

391.033 1. All licenses for teachers and other educational personnel are granted by the Superintendent of Public Instruction pursuant to regulations adopted by the Commission and as otherwise provided by law.

2. An application for the issuance of a license must include the social security number of the applicant.

3. Every applicant for a license must submit with his or her application a complete set of his or her fingerprints and written permission authorizing the Superintendent to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its *initial* report on the criminal history of the applicant ***and for reports thereafter upon renewal of the license pursuant to subsection 6 of NRS 179A.075***, and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.

4. The Superintendent may issue a provisional license pending receipt of the reports of the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History if the Superintendent determines that the applicant is otherwise qualified.

5. A license must be issued to , ***or renewed for, as applicable***, an applicant if:

- (a) The Superintendent determines that the applicant is qualified;
- (b) The reports on the criminal history of the applicant from the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History:

(1) Do not indicate that the applicant has been convicted of a felony or any offense involving moral turpitude; or

(2) Indicate that the applicant has been convicted of a felony or an offense involving moral turpitude but the Superintendent determines that the conviction is unrelated to the position within the county school district or charter school for which the applicant applied ~~{ }~~ *or for which he or she is currently employed, as applicable*; and

(c) ~~{The}~~ *For initial licensure, the* applicant submits the statement required pursuant to NRS 391.034.

~~{Sec. 2.}~~ **Sec. 3.** NRS 391.040 is hereby amended to read as follows:

391.040 1. The Commission shall fix fees of not less than \$65 for the ~~{issuance and renewal}~~ :

(a) *Initial issuance* of a license ~~{ }~~ , *which must include the fees for processing the fingerprints of the applicant by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation; and*

(b) *Renewal of a license, which must include the fees for processing the fingerprints of the applicant for renewal by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation.*

2. The fee for issuing a duplicate license is the same as for issuing the original.

~~{2.}~~ 3. The portion of each fee which represents the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant must be deposited with the State Treasurer for credit to the appropriate account of the Department of Public Safety. The remaining portion of the money received from the fees must be deposited with the State Treasurer for credit to the appropriate account of the Department of Education.

**Sec. 3.5. NRS 391.053 is hereby amended to read as follows:**

391.053 As used in NRS 391.053 to 391.059, inclusive, *and section 1 of this act*, “arrest” has the meaning ascribed to it in NRS 171.104.

**Sec. 3.7. NRS 391.059 is hereby amended to read as follows:**

391.059 Immunity from civil or criminal liability extends to every person who, pursuant to NRS 391.053 to 391.059, inclusive, *and section 1 of this act*, in good faith:

1. Participates in the making of a report;
2. Causes or conducts an investigation of a person who is licensed pursuant to this chapter and who is arrested; or
3. Submits information to the Department concerning a person who is licensed pursuant to this chapter and who is arrested.

~~{Sec. 3.}~~ **Sec. 4.** NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department,

➡ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and



(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 427A.735 and 449.179; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➡ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for *the issuance or renewal of* a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

➡ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of

the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

↳ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has fingerprints submitted pursuant to NRS 427A.735, 449.176 or 449.179.

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central

Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) “Personal identifying information” means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver’s license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) “Private school” has the meaning ascribed to it in NRS 394.103.

~~{Sec. 4.}~~ **Sec. 5.** This act becomes effective on July 1, 2011, for the purposes of adopting any necessary regulations and policies and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2012, for all other purposes.

Assemblyman Bobzien moved that the Assembly concur in the Senate amendment to Assembly Bill No. 393.

Remarks by Assemblyman Bobzien.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 179.

The following Senate amendment was read:

Amendment No. 773.

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

Legislative Counsel’s Digest:

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

**Section 1.5** of this bill requires an appointing authority to provide each employee of the appointing authority with a copy of a policy approved by the Personnel Commission that explains certain information relating to disciplinary action. **Section 2** of this bill requires an appointing authority to consult with the Attorney General or, if the appointing authority is part of the Nevada System of Higher Education, its general counsel, regarding any proposed disciplinary action before imposing the disciplinary action. **Section 3** of this bill requires certain investigations relating to disciplinary action against a public employee to be completed within 90 days after the employee is given notice of the allegations or investigation and provide for an extension of that time period.

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

**Section 1.** (Deleted by amendment.)

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

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

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

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

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

284.385 1. An appointing authority may:

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

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

2. *Before a permanent classified employee is dismissed, involuntarily demoted or suspended, the appointing authority must consult with the Attorney General or, if the employee is employed by the Nevada System of*

***Higher Education, the appointing authority's general counsel, regarding the proposed discipline. After such consultation, the appointing authority may take such lawful action regarding the proposed discipline as it deems necessary under the circumstances.***

3. A dismissal, involuntary demotion or suspension does not become effective until the employee is notified in writing of the dismissal, involuntary demotion or suspension and the reasons therefor. The notice may be delivered personally to the employee or mailed to the employee at the employee's last known address by registered or certified mail, return receipt requested. If the notice is mailed, the effective date of the dismissal, involuntary demotion or suspension shall be deemed to be the date of delivery or if the letter is returned to the sender, 3 days after mailing.

~~{3-}~~ 4. No employee in the classified service may be dismissed for religious or racial reasons.

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

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

~~{1-}~~ (a) Provided notice in writing of the allegations against the employee before the employee is questioned regarding the allegations; and

~~{2-}~~ (b) Afforded the right to have a lawyer or other representative of the employee's choosing present with the employee at any time that the employee is questioned regarding those allegations. The employee must be given not less than 2 business days to obtain such representation, unless the employee waives the employee's right to be represented.

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

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

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 179.

Remarks by Assemblywoman Kirkpatrick.  
Motion carried by a constitutional majority.  
Bill ordered enrolled.

Assembly Bill No. 198.

The following Senate amendment was read:

Amendment No. 611.

AN ACT relating to the Nevada Rural Housing Authority; revising the definition of “local government” to include the Authority for the purpose of loans from a local government **in certain counties** to the Authority; revising the requirements for eligibility to serve as a commissioner of the Authority; authorizing the Authority to receive a loan from a local government; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, before a local government may make an interfund loan or loan of money to another local government, the governing body of the local government that wishes to make the loan must determine at a public hearing that a sufficient amount of unrestricted money is available for the loan and that the loan will not compromise the economic viability of the fund from which the money is loaned. The local government must also establish at the public hearing: (1) the amount of time the money will be on loan from the fund; (2) the terms and conditions for repaying the loan; and (3) the rate of interest, if any, to be charged for the loan. (NRS 354.6118) For the purpose of making such a loan, the term “local government” does not include the Nevada Rural Housing Authority. (NRS 354.474) Existing law confers upon the Nevada Rural Housing Authority the authority to engage in various activities relating to the purposes for which the Authority was created, including, without limitation, the authority to enter into agreements or other transactions with any governmental agency or other source to further those purposes. (NRS 315.983)

**Section 1** of this bill revises the definition of “local government” to include the Nevada Rural Housing Authority for the sole purpose of loans from a local government **in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties)** to the Authority in accordance with existing law. **Section 3** of this bill expands the authorized actions of the Nevada Rural Housing Authority to include receipt by the Authority of such a loan of money from a local government.

Existing law provides for the appointment of five commissioners to serve as members of the Nevada Rural Housing Authority. Of those five commissioners, one commissioner must be appointed jointly by the Nevada League of Cities and the Nevada Association of Counties and must be a recipient of assistance from the Authority. If that commissioner ceases to

receive assistance from the Authority, he or she must be replaced by a person who receives such assistance. (NRS 315.977) **Section 2** of this bill revises the requirements for appointing that commissioner by providing that, if the commissioner no longer receives assistance from the Authority, he or she may continue to serve as a commissioner for the remainder of the unexpired term for which he or she was appointed if he or she resides within the area of operation of the Authority.

Existing law authorizes the Authority to operate in any area of this State which is not included within the corporate limits of a city or town having a population of 100,000 or more. (NRS 315.9835) **Section 4** of this bill authorizes the Authority to provide services in any area of the State if the Authority has contracted with the State or a local government to provide those services in that area. **Section 4** specifies that the provision of those services does not include the making of a mortgage loan ~~or~~, **the issuance of a mortgage credit certificate or bonds to finance a multifamily housing project, the allocation of a low-income housing tax credit or weatherization.**

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

**Section 1.** NRS 354.474 is hereby amended to read as follows:

354.474 1. Except as otherwise provided in subsections 2 and 3, the provisions of NRS 354.470 to 354.626, inclusive, apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive:

(a) “Local government” means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318 and 379 of NRS, NRS 450.550 to 450.750, inclusive, and chapters 474, 541, 543 and 555 of NRS, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.

(b) “Local government” *includes the Nevada Rural Housing Authority for the purpose of loans of money from a local government in a county whose population is less than 100,000 to the Nevada Rural Housing Authority in accordance with NRS 354.6118. The term* does not include the Nevada Rural Housing Authority ~~or~~ *for any other purpose.*

2. An irrigation district organized pursuant to chapter 539 of NRS shall fix rates and levy assessments as provided in NRS 539.667 to 539.683, inclusive. The levy of such assessments and the posting and publication of claims and annual financial statements as required by chapter 539 of NRS shall be deemed compliance with the budgeting, filing and publication

requirements of NRS 354.470 to 354.626, inclusive, but any such irrigation district which levies an ad valorem tax shall comply with the filing and publication requirements of NRS 354.470 to 354.626, inclusive, in addition to the requirements of chapter 539 of NRS.

3. An electric light and power district created pursuant to chapter 318 of NRS shall be deemed to have fulfilled the requirements of NRS 354.470 to 354.626, inclusive, for a year in which the district does not issue bonds or levy an assessment if the district files with the Department of Taxation a copy of all documents relating to its budget for that year which the district submitted to the Rural Utilities Service of the United States Department of Agriculture.

**Sec. 2.** NRS 315.977 is hereby amended to read as follows:

315.977 1. The Nevada Rural Housing Authority, consisting of five commissioners, is hereby created.

2. The commissioners must be appointed as follows:

(a) Two commissioners must be appointed by the Nevada League of Cities.

(b) Two commissioners must be appointed by the Nevada Association of Counties.

(c) One commissioner must be appointed jointly by the Nevada League of Cities and the Nevada Association of Counties. This commissioner must be a current recipient of assistance from the Authority and must be selected from a list of at least five eligible nominees submitted for this purpose by an organization which represents tenants of housing projects operated by the Authority. If no such organization exists, the commissioner must be selected from a list of nominees submitted for this purpose from persons who currently receive assistance from the Authority. If during his or her term the commissioner ceases to be a recipient of assistance, the commissioner ~~must be replaced by a person who is a recipient of assistance.~~ ***may continue to serve as a commissioner for the remainder of the unexpired term for which he or she was appointed if he or she resides within the area of operation of the Authority.***

3. After the initial terms, the term of office of a commissioner is 4 years or until his or her successor takes office.

4. A majority of the commissioners constitutes a quorum, and a vote of the majority is necessary to carry any question.

5. If either of the appointing entities listed in subsection 2 ceases to exist, the pertinent appointments required by subsection 2 must be made by the successor in interest of that entity or, if there is no successor in interest, by the other appointing entity.

**Sec. 3.** NRS 315.983 is hereby amended to read as follows:



315.983 1. Except as otherwise provided in NRS 354.474 and 377.057, the Authority:

(a) Shall be deemed to be a public body corporate and politic, and an instrumentality, local government and political subdivision of the State, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out the purposes and provisions of NRS 315.961 to 315.99874, inclusive, but not the power to levy and collect taxes or special assessments.

(b) Is not an agency, board, bureau, commission, council, department, division, employee or institution of the State.

2. The Authority may:

(a) Sue and be sued.

(b) Have a seal.

(c) Have perpetual succession.

(d) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(e) Deposit money it receives in any insured state or national bank, insured credit union, insured savings and loan association, or in the Local Government Pooled Long-Term Investment Account created by NRS 355.165 or the Local Government Pooled Investment Fund created by NRS 355.167.

(f) Adopt bylaws, rules and regulations to carry into effect the powers and purposes of the Authority.

(g) Create a nonprofit organization which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and which has as its principal purpose the development of housing projects.

(h) Enter into agreements or other transactions with, and accept grants from and cooperate with, any governmental agency or other source in furtherance of the purposes of NRS 315.961 to 315.99874, inclusive.

(i) **Enter into an agreement with a local government in a county whose population is less than 100,000 to receive a loan of money from the local government in accordance with NRS 354.6118.**

(j) Acquire real or personal property or any interest therein, by gift, purchase, foreclosure, deed in lieu of foreclosure, lease, option or otherwise.

**Sec. 4.** NRS 315.9835 is hereby amended to read as follows:

315.9835 The State Authority may :

**1. Except as otherwise provided in subsection 2,** operate in any area of the State which is not included within the corporate limits of a city or town having a population of 100,000 or more.

**2. Provide services in any area of the State if the State Authority has contracted with the State or a local government to provide those services in that area. As used in this subsection, “services” does not include ~~the~~ :**

*(a) The making of a mortgage loan pursuant to NRS 315.9981 to 315.99874, inclusive ~~to~~;*

*(b) The issuance of a mortgage credit certificate;*

*(c) The issuance of bonds to finance a multifamily housing project;*

*(d) The allocation of a low-income housing tax credit; or*

*(e) Weatherization other than an assessment or inspection of property for weatherization.*

*3. As used in this section, "weatherization" means materials or measures, and their installation, that are used to improve the thermal efficiency of a building, facility, residence or structure.*

Sec. 5. (Deleted by amendment.)

Sec. 6. This act becomes effective on July 1, 2011.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 198.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 304.

The following Senate amendment was read:

Amendment No. 747.

AN ACT relating to fire protection; codifying in statute the requirement in regulation that a person obtain a certificate of registration before acting as a fire performer; authorizing a person to act as a fire performer if the person holds a certificate of registration as an apprentice fire performer; providing for the application for and issuance of a certificate of registration as an apprentice fire performer; prohibiting an apprentice fire performer from acting as a fire performer without certain supervision; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Currently, regulations adopted by the State Fire Marshal, who is charged with enforcing all laws and adopting regulations relating to fire prevention, require a person to apply to the State Fire Marshal for a certificate of registration as a fire performer before entertaining or otherwise performing before an audience using an open flame. (NRS 477.030; NAC 477.630) Any person who knowingly violates any of those laws or regulations is guilty of a misdemeanor. (NRS 477.250)

This bill codifies in statute the requirements in those regulations and adds requirements for both fire performers and apprentice fire performers. Under **section 5** of this bill, a person is prohibited from acting as a fire performer unless the person is the holder of a certificate of registration as a fire performer, as in existing regulation. **Section 5** also authorizes a person to act

as a fire performer if the person is the holder of a certificate of registration as an apprentice fire performer. **Section 5** authorizes the State Fire Marshal to issue either certificate to a person who ~~is at least 18 years of age,~~ **meets the age requirement for that certificate,** submits an application that includes a description of the person's experience as a fire performer or apprentice fire performer and all safety precautions used by the applicant while acting as a fire performer or apprentice fire performer, and pays an application fee prescribed by regulations adopted by the State Fire Marshal. **Section 5** also provides for the renewal of each such certificate.

**Section 6** of this bill prohibits an apprentice fire performer from acting as a fire performer unless the apprentice is directly supervised at all times by a registered fire performer who is at least 21 years of age. The person supervising must ensure that the apprentice fire performer safely handles and operates any equipment and complies with all applicable laws relating to acting as a fire performer.

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

**Section 1.** Chapter 477 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *"Apprentice fire performer" means a person who is issued a certificate of registration as an apprentice fire performer pursuant to section 5 of this act.*

**Sec. 4.** *"Fire performer" means an entertainer or other performer who performs for an audience using an open flame ~~and~~ in a venue authorized by permit of a governmental entity.*

**Sec. 5. 1.** *A person shall not act as a fire performer unless the person is the holder of a certificate of registration as a fire performer or apprentice fire performer issued by the State Fire Marshal pursuant to this section.*

**2.** *An applicant for a certificate of registration as a fire performer or apprentice fire performer must:*

*(a) Be a natural person ~~who is~~ and, if the application is:*

*(1) For a fire performer, be at least 21 years of age; or*

*(2) For an apprentice fire performer, be at least 18 years of age;*

*(b) Make a written notarized application to the State Fire Marshal on a form provided by the State Fire Marshal;*

*(c) Submit to the State Fire Marshal a resume setting forth the experience of the applicant as a fire performer or apprentice fire performer*

*and a description of all safety precautions used by the applicant while acting as a fire performer or apprentice fire performer; and*

*(d) Pay an application fee in an amount prescribed by regulations adopted by the State Fire Marshal.*

*3. The State Fire Marshal may:*

*(a) Issue to any person who applies for either certificate pursuant to subsection 2 a certificate of registration as a fire performer or apprentice fire performer; and*

*(b) Renew a certificate of registration as a fire performer or apprentice fire performer to any person who applies for a renewal in a manner specified by the State Fire Marshal and pays a renewal fee in an amount prescribed by regulations adopted by the State Fire Marshal.*

*4. A certificate of registration as a fire performer or apprentice fire performer is valid for the period prescribed by regulations adopted by the State Fire Marshal.*

*Sec. 6. 1. An apprentice fire performer may not act as a fire performer unless, at all times while the apprentice fire performer is acting as a fire performer, the apprentice fire performer is directly supervised by a person who:*

*(a) Is at least 21 years of age; and*

*(b) Is the holder of a certificate of registration as a fire performer issued pursuant to section 5 of this act.*

*2. While an apprentice fire performer is acting as a fire performer, the fire performer who is directly supervising the apprentice fire performer shall ensure that the apprentice fire performer:*

*(a) Safely handles and operates any equipment used by the apprentice fire performer; and*

*(b) Complies with all applicable laws and regulations concerning acting as a fire performer.*

*Sec. 7. 1. In addition to any other requirements set forth in sections 2 to 8, inclusive, of this act, an applicant for the issuance or renewal of a certificate of registration pursuant to section 5 of this act shall:*

*(a) Include the social security number of the applicant in the application submitted to the State Fire Marshal.*

*(b) Submit to the State Fire Marshal the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

*2. The State Fire Marshal shall include the statement required pursuant to subsection 1 in:*

*(a) The application or any other forms that must be submitted for the issuance or renewal of the certificate of registration; or*

*(b) A separate form prescribed by the State Fire Marshal.*

*3. A certificate of registration may not be issued or renewed by the State Fire Marshal pursuant to section 5 of this act if the applicant:*

*(a) Fails to submit the statement required pursuant to subsection 1; or*

*(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*

*4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the State Fire Marshal shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

*Sec. 8. 1. If the State Fire Marshal receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a certificate of registration as a fire performer or apprentice fire performer, the State Fire Marshal shall deem the certificate of registration issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the State Fire Marshal receives a letter issued to the holder of the certificate of registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate of registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*2. The State Fire Marshal shall reinstate a certificate of registration as a fire performer or apprentice fire performer that has been suspended by a district court pursuant to NRS 425.540 if the State Fire Marshal receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate of registration was suspended stating that the person whose certificate of registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*Sec. 9. On or before December 30, 2011, the State Fire Marshal shall adopt any regulations necessary to carry out the amendatory provisions of this act.*

**Sec. 10.** 1. This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

2. Sections 7 and 8 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children, ➤ are repealed by the Congress of the United States.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 304.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 238.

The following Senate amendment was read:

Amendment No. 633.

AN ACT relating to local government finance; revising provisions concerning the refunding of municipal securities related to infrastructure projects in certain counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Since October 1, 1999, a county has been authorized, as part of a lending project under the County Bond Law, to acquire securities issued by a municipality located wholly or partially within the county: (1) to undertake one or more infrastructure projects; or (2) to refund those securities. In the latter case, a county's authority is limited to acquiring only those securities issued to refund municipal securities for infrastructure projects that were previously acquired by the county. (NRS 244A.0343, 244A.064) This bill **partially** eliminates this limitation on a county's authority in a county whose population is 100,000 or more but less than 700,000 (currently Washoe County) and thereby allows such a county to acquire securities that were issued by a  ~~municipality to refund municipal securities issued previously for infrastructure~~ **water authority for water** projects regardless of whether those securities are held by the county or another entity. However, such a county may only acquire those municipal securities issued for purposes of refunding if the initial securities for the  ~~infrastructure~~ **water** projects were issued by the municipality on or after October 1, 1999.

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

**Section 1.** NRS 244A.0343 is hereby amended to read as follows:

244A.0343 “Lending project” means :

**1. *In a county whose population is 100,000 or more but less than 700,000, the acquisition of municipal securities issued by a ~~municipality~~ water authority located wholly or partially within the county acquiring the municipal securities for one or more infrastructure projects which consist of capital improvements for a water system or for the refunding of municipal securities issued on or ~~before~~ after October 1, 1999, for one or more infrastructure projects which consist of capital improvements for a water system or any combination thereof.***

**2. *In all other counties,*** the acquisition of municipal securities issued by a municipality located wholly or partially within the county acquiring the municipal securities for one or more infrastructure projects or for the refunding of municipal securities previously acquired as part of a lending project by a county for one or more infrastructure projects or any combination thereof.

**Sec. 2.** NRS 244A.064 is hereby amended to read as follows:

244A.064 In connection with any lending project, a county may:

1. Require additional security or credit enhancement for payment of municipal securities acquired as it deems prudent.

2. Make contracts and execute all necessary or desirable instruments or documents not in conflict with the requirements of the County Bond Law.

3. Provide by ordinance for its standards, policies and procedures for financing lending projects.

4. Acquire and hold municipal securities and execute the rights of the holder of those municipal securities.

5. Sell or otherwise dispose of municipal securities unless the county is limited by any agreement that is related to those securities.

6. ~~Refund any county general obligations issued for a lending project if~~  
***If*** the county and the municipality agree to the disposition of any savings resulting from the refunding ~~it~~ :

***(a) In a county whose population is 100,000 or more but less than 700,000, refund:***

***(1) Any county general obligations issued for a lending project;***

***(2) Any municipal securities issued on or after October 1, 1999, for one or more infrastructure projects which consist of capital improvements for a water system ; or***

***(3) Any combination of subparagraphs (1) and (2).***

***(b) In all other counties, refund any county general obligations issued for a lending project.***

7. Require payment by a municipality that participates in a lending project of the fees and expenses of the county in connection with the lending project.

8. Secure the payment of county general obligations issued for a lending project with a pledge of revenues of the lending project. If the revenues of a lending project are formally pledged to the county bonds issued to finance a lending project, the board may treat the revenues of the lending project financed by an issue of county general obligation bonds as pledged revenues pursuant to subsection 3 of NRS 350.020.

**Sec. 3.** This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 238.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered enrolled.

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 10:36 p.m.

#### ASSEMBLY IN SESSION

At 10:40 p.m.

Mr. Speaker presiding.

Quorum present.

#### MOTIONS, RESOLUTIONS AND NOTICES

##### NOTICE OF EXEMPTION

May 30, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 351.

MARK KRMPOTIC  
*Fiscal Analysis Division*

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 453.

Bill read third time.

Roll call on Assembly Bill No. 453:

YEAS—33.

NAYS—Aizley, Hambrick, Hammond, Hardy, Hickey, Hogan, Kirner, McArthur, Sherwood—9.



Assembly Bill No. 453 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 43.

Bill read third time.

Remarks by Assemblyman Carrillo.

Roll call on Senate Bill No. 43:

YEAS—38.

NAYS—Ellison, Hambrick, Hansen, McArthur—4.

Senate Bill No. 43 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 113.

Bill read third time.

Roll call on Senate Bill No. 113:

YEAS—42.

NAYS—None.

Senate Bill No. 113 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 154.

Bill read third time.

Roll call on Senate Bill No. 154:

YEAS—34.

NAYS—Ellison, Goedhart, Hardy, Hickey, Kirner, Kite, McArthur, Stewart—8.

Senate Bill No. 154 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 18.

Bill read third time.

Roll call on Senate Bill No. 18:

YEAS—42.

NAYS—None.

Senate Bill No. 18 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 19.

Bill read third time.

Roll call on Senate Bill No. 19:

YEAS—38.

NAYS—Carlton, Carrillo, Hickey, Mastroluca—4.

Senate Bill No. 19 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 30.

Bill read third time.

Roll call on Senate Bill No. 30:

YEAS—42.

NAYS—None.

Senate Bill No. 30 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 94.

Bill read third time.

Roll call on Senate Bill No. 94:

YEAS—42.

NAYS—None.

Senate Bill No. 94 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 106.

Bill read third time.

Roll call on Senate Bill No. 106:

YEAS—42.

NAYS—None.

Senate Bill No. 106 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 186.

Bill read third time.

Roll call on Senate Bill No. 186:

YEAS—42.

NAYS—None.

Senate Bill No. 186 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 194.

Bill read third time.

Roll call on Senate Bill No. 194:

YEAS—42.

NAYS—None.

Senate Bill No. 194 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 293.

Bill read third time.

Roll call on Senate Bill No. 293:

YEAS—42.

NAYS—None.

Senate Bill No. 293 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 315.

Bill read third time.

Roll call on Senate Bill No. 315:

YEAS—42.

NAYS—None.

Senate Bill No. 315 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 365.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Potential conflict of interest declared by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 365:

YEAS—40.

NAYS—Anderson, Smith—2.

Senate Bill No. 365 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 307.

Bill read third time.

Roll call on Assembly Bill No. 307:

YEAS—38.

NAYS—Ellison, Hammond, Hansen, Livermore—4.

Assembly Bill No. 307 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

## MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 449 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

## GENERAL FILE AND THIRD READING

Assembly Bill No. 572.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 572:

YEAS—42.

NAYS—None.

Assembly Bill No. 572 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 249.

Bill read third time.

Roll call on Senate Bill No. 249:

YEAS—38.

NAYS—Aizley, Hardy, Hickey, Sherwood—4.

Senate Bill No. 249 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 294.

Bill read third time.

Roll call on Senate Bill No. 294:

YEAS—42.

NAYS—None.

Senate Bill No. 294 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 262.

Bill read third time.

Remarks by Assemblyman Hardy.

Roll call on Senate Bill No. 262:

YEAS—42.

NAYS—None.

Senate Bill No. 262 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 289.

Bill read third time.

Remarks by Assemblyman Atkinson.

Roll call on Senate Bill No. 289:

YEAS—42.

NAYS—None.

Senate Bill No. 289 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 267.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Senate Bill No. 267:

YEAS—34.

NAYS—Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Livermore—8.

Senate Bill No. 267 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 98.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Senate Bill No. 98:

YEAS—42.

NAYS—None.

Senate Bill No. 98 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 11:22 p.m.

#### ASSEMBLY IN SESSION

At 11:48 p.m.

Mr. Speaker presiding.

Quorum present.

#### UNFINISHED BUSINESS

#### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 17, 98, 122, 132, 160, 456, 500, 519, 521; Senate Bills Nos. 37, 88, 97, 102, 112, 128, 132, 152, 182, 190, 201, 205, 210, 213, 221, 226, 234,

237, 246, 273, 277, 300, 317, 358, 411, 417, 420, 430, 444, 445, 450, 481;  
Senate Concurrent Resolution No. 13.

Assemblyman Conklin moved that the Assembly adjourn until Tuesday, May 31, 2011, at 11 a.m., and that it do so in honor of all of the past and present military personnel serving this country in great distinction.

Motion carried.

Assembly adjourned at 11:51 p.m.

Approved:

JOHN OCEGUERA  
*Speaker of the Assembly*

Attest: SUSAN FURLONG  
*Chief Clerk of the Assembly*